

NOTICE OF SPECIAL CITY COUNCIL MEETING
Council Chambers - 4th floor - City Hall - 200 North Second Street
Tuesday, March 11, 2014
7:00 p.m.

TO: COUNCILMEMBERS:

Mary Ann Ohms, Ward 1
Tom Besselman, Ward 2
Laurie Feldman, Ward 3
Mary West, Ward 4
Michael Weller, Ward 5

Jerry Reese, Ward 6
Dave Beckering, Ward 7
Rod Herrmann, Ward 8
Ron Stivison, Ward 9
Bridget Ohmes, Ward 10

You are hereby notified that a Special Session of the City Council of the City of Saint Charles, Missouri has been called by the Mayor to be held on **Tuesday, March 11, 2014, for 7:00 p.m.**, in the Council Chambers on the 4th Floor of City Hall, Saint Charles, Missouri 63301. The Special Session is called for the following reasons:

1. ROLL CALL

2. PUBLIC COMMENT

- A. Reading of Written Petitions, Memorials and Remonstrances
- B. Public Comment Relative to Agenda Items
- C. Public Comment Relative to City Issues

NOTE: To address the Council, please complete a speaker card and present to the City Clerk prior to the meeting.

3. BILLS FOR FINAL PASSAGE

Bill 11263

An Ordinance Approving a Second Amendment to Redevelopment Agreement, Third Supplemental Amendment to Series 1997 Indenture and a Federal Tax Certificate in Connection with a Tax Increment Financing Redevelopment Project and Tax Increment Revenue Notes Associated with the West 370 Redevelopment Area and Approving Certain Actions in Connection Therewith (*Sponsor: Rod Herrmann*)

4. BILLS FOR INTRODUCTION


Bill 11264

An Ordinance Authorizing Contract Amendment Number 3 with Charter Fiberlink-Missouri, LLC (Charter Business) for the Wide Area Network Upgrade Project to Extend a Connection to Fire Station Number 4 in an Amount of \$87,012.00, for a Total Contract Amount Not to Exceed \$678,053.40 (*Sponsor: Ron Stivison*)

5. CLOSED SESSION, IF REQUESTED:

- A. Legal actions, causes of action, or litigation (RSMo 610.021.1)
- B. Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration therefor (RSMo 610.021.2)

- C. Hiring, firing, disciplining or promoting of particular employees when information relating to the performance or merit of individual employees is discussed or recorded (RSMo 610.021.3)
- D. Preparation, including any discussions or work product, on behalf of the Council or its representatives for negotiations with employee groups (RSMo 610.021.9)
- E. Sealed proposals and related documents or any documents related to a negotiated contract (RSMo 610.021.12)


Sally A. Faith, Mayor

Dated: March 7, 2014

The City of St. Charles offers all interested citizens the opportunity to attend public meetings and comment on public matters. If you wish to attend this public meeting and require an accommodation due to a disability, please contact the Office of The City Clerk to coordinate an accommodation at least two (2) business days in advance of the scheduled meeting at 636-949-3282 or 636-949-3289 (TTY – for the hearing impaired).

The City of St. Charles, Missouri, fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, please call the City Clerk's Office at (636)949-3282 or visit City Hall located at 200 North Second Street, St. Charles, Missouri, 63301.

Posted: Friday, March 7, 2014 – 5:00 p.m.

RCA FORM (OFFICE USE ONLY)

Bill # 11263

MEETING/DATE: March 4, 2014

Regular(X) Special() Work Session()

ATTACHMENT: YES(X) NO()

Report() Resolution() Ordinance(X)

Request for Council Action

Ward: Nine Sponsor: Rod Herrmann

Description: An Ordinance Approving a Second Amendment to the Redevelopment Agreement, Third Supplemental Amendment to the Series 1997 Indenture and Federal Tax Certificate Associated with the West 370 Tax Increment Financing Redevelopment Area.

- **Contract Extension/Renewal:** Yes () No (x)
- **Information Paper Attached:** Yes () No (x)

Board/Committee/Commission: Approve() Disapprove()

Summary:

This ordinance approves all of the documents associated with and approves all the actions necessary to enable the Developer to execute the additional project of raising the elevation of property within the redevelopment area. The Developer has until 2018 to complete the project.

Also, the TIF Notes maturities are extended to December 8, 2021.

The Developer and Orchard Farm School District have entered into an agreement to provide for the Developer to pay the School District its real property taxes.

STAFF RECOMMENDATION: Approve.

Budget Impact: None

RCA prepared by: Legal Dept. Director *MSV*

Director of Finance *α/A*

Director of Admin *NAJS*

SCHOOL DISTRICT PAYMENT AGREEMENT

THIS SCHOOL DISTRICT PAYMENT AGREEMENT (this "Agreement") is made and entered into as of this 31st day of March, 2014, by and between **FOUNTAIN LAKES LAND HOLDING, LLC**, a Missouri limited liability company ("Fountain Lakes") and the **ORCHARD FARM SCHOOL DISTRICT**, a legally constituted school district and political subdivision organized and existing under the laws of the State of Missouri (the "School District").

RECITALS

A. Fountain Lakes has entered into that certain Second Amendment to Redevelopment Agreement with the City of St. Charles, Missouri (the "City"), for the purpose of extending the maturity date of certain tax increment financing notes (the "Notes") previously issued by the City.

B. Fountain Lakes and the School District wish to enter into this Agreement for the purpose of mitigating any tax revenue implications to the School District caused by such extension and for the purpose of providing payment to the School District in lieu of certain tax revenues which will or may be lost as a result of the extension.

AGREEMENT

1. Representation and Warranty from Fountain Lakes. Fountain Lakes represents and warrants to the District that it is the holder in due course of the Notes and that it will provide the District with evidence thereof upon District's request.

2. Payments. Commencing September 2014, on or before each March 15 and September 15 (each a "Payment Date") thereafter and continuing for as long as the Notes are outstanding, Fountain Lakes shall make a payment to the School District calculated as follows:

- (a) an amount equal to the assessed value of all real property located within the West 370 Redevelopment Area (the "Area")¹ for which property taxes have been paid and remitted to the special allocation fund for the Area since the last Payment Date (or the date of this Agreement in the case of the September 2014 payment) **multiplied by** the ad valorem tax rate imposed by the School District² for such calendar year **less**
- (b) on each March Payment Date, an amount equal to the base assessed value of all real property located within the Area³ **multiplied by** the ad valorem tax rate imposed by the School District for such calendar year **less**
- (c) any fees imposed by St. Charles County for the collection of such taxes **less**
- (d) an amount equal to payments made to the School District as surplus funds for such calendar year as discussed on page 4-6 of the Redevelopment Plan – West 370 Redevelopment Area **plus**

¹ Per a parcel list provided by the St. Charles County Assessor, which list is attached hereto as Exhibit A and incorporated herein by this reference, the assessed value of all real property located within the Area for the calendar year 2013 is \$21,306,699.

² The ad valorem tax rate imposed by the School District for the calendar year 2013 is 4.8344.

³ The base assessed value of all real property located within the Area is \$71,430.

- (e) to the extent any property within the Area is subject to tax exemption or tax abatement and the assessed value of such abated or exempt property is not included in the calculation in Subparagraph (a) above, an amount equal to the School District's prorata portion of any payments in lieu of real property taxes paid with respect to such abated or exempt property and remitted to the special allocation fund for the Area since the last Payment Date (or the date of this Agreement in the case of the September 2014 payment) less
- (f) an amount equal to payments made to the School District as surplus funds pursuant to Section 99.850 of the Missouri Revised Statutes, as amended.

By way of example only, using the 2013 assessed value of all real property located within the Area of \$21,306,699, and assuming property taxes have been paid and remitted to the special allocation fund for all real property located within the Area since the last Payment Date, the last Payment Date was September 15, 2014, the School District's ad valorem tax rate for 2014 is 4.8344, the total tax rate of all taxing districts imposing ad valorem taxes in 2014 is 7.3173, St. Charles County charges a 2% fee on all such taxes collected, and there is tax abated or exempt property for which the owner pays a payment in lieu of real property tax in the amount of \$270,000, the amount of the March 15, 2015 payment would be calculated as follows: (a) \$1,030,051 (calculated as follows: $\$21,306,699 \times 4.8344\%$) less (b) \$3,453 (calculated as follows: $\$71,430 \times 4.8344\%$) less (c) \$20,532 [calculated as follows: $(\$1,030,051 - \$3,453) \times 2\%$] less (d) \$150,914 [calculated as follows: $(\$21,306,699 \times 7.3173\%) \text{ less } (\$71,430 \times 7.3173\%) \text{ less } (\$1,553,848 \times 2\%) \times 15\% \times 66.07\% (4.8344/7.3173)$] plus (e) \$178,389 [$\$270,000 \times 66.07\% (4.8344/7.3173)$] for a total payment of \$1,033,541.

3. Fountain Lakes' Obligation Contingent on Receipt of Note Payments. Notwithstanding anything to the contrary contained herein, Fountain Lakes is only obligated to make payments pursuant to Paragraph 2 if the City makes payments to Fountain Lakes pursuant to the terms of the Notes, provided in conjunction with this Agreement, Fountain Lakes shall collaterally assign to District a portion of the Notes representing the payment amounts in Paragraph 2 pursuant to a collateral assignment acceptable to District.

4. Consideration. In consideration of the promise of such payments, the School District hereby waives its rights to and covenants that it will not, in any manner, either directly or indirectly, challenge the validity of the extension of the maturity date of the Notes provided in no event shall there be any extension of the maturity dates of the Notes beyond December 9, 2020. If the School District fails to perform this covenant, after thirty (30) days written notice and demand by Fountain Lakes to perform this covenant by withdrawing any challenge, Fountain Lakes shall no longer be obligated to make any payments pursuant to Paragraph 2 and the School District shall pay liquidated damages to Fountain Lakes equal to the sum of all payments made pursuant to Paragraph 2 by the applicable entity. Notwithstanding the foregoing, this waiver and covenant does not apply in the event Fountain Lakes fails to perform any covenant of this Agreement.

5. Miscellaneous.

(a) Notices. All notices required or permitted under this Agreement shall be either personally delivered or placed in the United States mail, property addressed as set forth below, with first-class postage prepaid. Such notices shall be deemed received on the earlier of the date actually received or forty-eight (48) hours after being mailed in the manner set forth above. Such notices shall be sent to the parties at the following addresses, unless otherwise notified in writing:

To School District: Orchard Farm School District

2165 Hwy V,
St Charles, MO 63301
Attention:

To Fountain Lakes: Fountain Lakes Land Holding, LLC
P.O. Box 16070
St. Louis, Missouri 63105
Attention: Robert Millstone

(b) *No Third-Party Beneficiaries.* There shall be no third-party beneficiaries to this Agreement.

(c) *Severability.* Whenever possible, each provision of this Agreement and any related document shall be interpreted in such a manner as to be valid under Missouri law. If any of the foregoing provisions or provisions of a related document are deemed to be invalid or prohibited under applicable law, such provisions shall be ineffective to the extent of such invalidating or prohibition, without invalidating the remainder or such provision or the remaining provisions of this Agreement or the related document.

(d) *Effective Date of Agreement.* The Effective Date of this Agreement shall be the date of execution of this Agreement by last to sign as set forth below.

(e) *Choice of Law.* This Agreement and each and every related document is to be governed by, and construed in accordance with, the laws of the State of Missouri. Venue in any action shall be the Circuit Court of St. Charles County, Missouri

(f) *Paragraph Headings.* The headings of the paragraphs in this Agreement are inserted solely for convenience of reference and are not intended to govern, limit or aid in the construction of any term or provision hereof.

(g) *Waiver.* No claim or waiver, consent or acquiescence with respect to any provisions of this Agreement shall be made against any party hereto except on the basis of a written instrument executed by or on behalf of such party.

(h) *Further Actions.* The parties agree to execute such further documents and take such further actions as may reasonably be required to carry out the provisions of this Agreement or any agreement or document relating hereto or entered into in connection herewith.

(i) *Last Day for Performance.* If the last day for the performance of any payment or obligation or satisfaction or waiver of any condition or contingency under this Agreement is a Saturday, Sunday or legal holiday, then such last day shall be extended to the next business day.


(j) *Entire Agreement and Amendment.* This Agreement constitutes the entire undertaking between the parties hereto and supersedes any and all agreements, arrangements and understandings between the parties hereto. This Agreement can be amended only by a writing executed by the parties.

(k) *Assignment of Agreement.* Each of the parties acknowledge that this Agreement cannot be assigned without the written consent of the parties.

6. Required City Action. This Agreement shall be of no force and effect unless and until the City approves an ordinance authorizing a Second Amendment to Redevelopment Agreement (the "Amendment") and Third Supplemental Amendment to Series 1997 Indenture (the "Supplement") and the City and Fountain Lakes execute and deliver the Amendment and the Supplement, as applicable.

IN WITNESS WHEREOF, Fountain Lakes and the School District have caused this Agreement to be executed in their respective names.

**FOUNTAIN LAKES LAND HOLDING,
LLC**

By: 
Title: manager
Date: 3/3/14

ORCHARD FARM SCHOOL DISTRICT

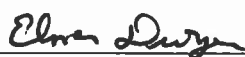
By: 
Title: Board of Education President
Date: February 28, 2014

Exhibit A

2013 Assessed Value for the Area

Owner Name	Account/Parcel #	Market Value	Assessed Value
MITEK INDUSTRIES INC	T100500310	\$10,614,236	\$0
AIR PRODUCTS AND CHEMICALS INC	T090700019	\$5,534,873	\$1,771,160
COLE MM ST CHARLES MO LLC	T090500164	\$1,495,992	\$478,717
MILLSTONE COMPANY THE	T090500166	\$26,625	\$3,195
COMMERCE BANK NATIONAL ASSOCIATION	T090500193	\$1,084	\$130
MILLSTONE COMPANY THE	T090500194	\$2,228	\$267
FOUNTAIN LAKES LAND HOLDING LLC	T090700016	\$8,278	\$993
FOUNTAIN LAKES LAND HOLDING LLC	T090700017	\$16,736	\$2,008
AIR PRODUCTS AND CHEMICALS INC	T090700018	\$435,600	\$139,392
NKC INC	T040700001	\$1,517,655	\$485,649
GATELY ENTERPRISES LLC	T010500060	\$3,164,699	\$1,012,704
EXETER 202-205 FOUNTAIN LAKES INDUSTRIAL LLC	T010500063	\$9,012,381	\$2,883,962
K & M INVESTORS INC	T010500062	\$2,612,018	\$835,846
GATELY ENTERPRISES LLC	T010500061	\$7,023	\$843
VET PROPERTY LLC	T080700026	\$709,195	\$226,943
PINES AT ELM POINT LLC THE	T080700012	\$24,999	\$8,000
SCHAUB FAMILY LLC	T080700011	\$545,780	\$174,650
DOOZLES INC	T080700010	\$338,610	\$108,355
AEX LLC	T080700009	\$3,664	\$440
CITY OF ST CHARLES MISSOURI	T010500064	\$992,842	\$0
ST LOUIS VP PARTNERS LTD	T010500009	\$2,783,920	\$890,854
WHITE PHILIP EARL TRUST	T070500575	\$414,255	\$132,562
GATEWAY RE I INC	T000500043	\$364,596	\$116,671
GATEWAY RE I INC	T060500002	\$6,346,667	\$2,030,933
ELM & 370 LLC	T060700246	\$1,068,167	\$341,813
THETAP LLC	T060700247	\$1,194,973	\$382,392
GLOBAL HOSPITALITY LLC	T000500042	\$1,530,324	\$489,704
EXETER 3601-3651 NEW TOWN LLC	T000500038	\$4,418,965	\$1,414,069
EXETER 121-125 FOUNTAIN LAKES INDUSTRIAL LLC	T000500037	\$6,028,088	\$1,928,988
PAX ENTERPRISES LC*DIOGI LLC	T050500005	\$2,871,370	\$918,838
FOUNTAIN LAKES LAND HOLDING I LLC	T020700087	\$6,426	\$771
FOUNTAIN LAKES DEVELOPMENT COMPANY LLC	T050500006	\$894,757	\$286,322
NEW FRONTIER BANK	T040700167	\$103,744	\$33,198
NEW FRONTIER BANK	T040700166	\$858,930	\$274,858
LAND WEST #7 LLC	T040700165	\$1,782,732	\$570,474
SONIC ST CHARLES NO 1 LLC	T040700163	\$500,967	\$160,309

CITY OF ST CHARLES MISSOURI	T040700065	\$313,500	\$0
CITY OF ST CHARLES MISSOURI	T040700064	\$1,127,400	\$0
BR PARTNERS LLC*HONERKAMP ALAN C*CAB			
APARTMENTS LLC	T030700006	\$100,697	\$32,223
GMB-MBC LLC	T010500067	\$2,499,558	\$799,859
M B PROPERTIES LLC	T010700002	\$3,000	\$960
S S & D PROPERTIES LLC	T010500074	\$1,264,274	\$404,568
S S & D PROPERTIES LLC	T010500073	\$1,940	\$233
S S & D PROPERTIES LLC	T010500072	\$2,281,938	\$730,220
CITY OF ST CHARLES MISSOURI	T010500071	\$851,700	\$0
CITY OF ST CHARLES MISSOURI	T010500070	\$68,000	\$0
TSI GLOBAL COMPANIES LLC	T010500069	\$571,000	\$68,520
370 TECH CENTER LLC	T010500068	\$3,637,832	\$1,164,106
			\$21,306,699

SPONSOR: Rod Herrmann

AN ORDINANCE APPROVING A SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT, THIRD SUPPLEMENTAL AMENDMENT TO SERIES 1997 INDENTURE AND A FEDERAL TAX CERTIFICATE IN CONNECTION WITH A TAX INCREMENT FINANCING REDEVELOPMENT PROJECT AND TAX INCREMENT REVENUE NOTES ASSOCIATED WITH THE WEST 370 REDEVELOPMENT AREA AND APPROVING CERTAIN ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City is authorized and empowered under the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the "Act"), to issue notes for the purpose of providing funds to finance the costs of certain redevelopment projects and to pay certain costs related to the issuance of such notes; and

WHEREAS, the City has approved the Redevelopment Plan West 370 Redevelopment Area (the "Plan") pursuant to the Act; and

WHEREAS, in connection with the Plan, the City entered into a Redevelopment Agreement with M.B. Properties, L.L.C. (which, subsequently, was succeeded in interest by MB Properties, Inc. (the "Developer")) dated as of December 22, 1997 and a First Amendment to Redevelopment Agreement dated as of January 1, 2005 (collectively, the "Redevelopment Agreement"); and

WHEREAS, in connection with the Plan, the City has issued tax increment revenue notes (the "Notes") pursuant to a Trust Indenture dated as of December 1, 1997, by and between the City and Magna Bank, N.A. (which, subsequently, was succeeded in interest by The Bank of New York Mellon Trust Company, N.A. (the "Trustee")), as amended by the First Supplemental Amendment to Series 1997 Indenture dated as of May 1, 2001 and the Second Supplemental Amendment to Series 1997 Indenture dated as of January 1, 2005 (collectively, the "Indenture"); and

WHEREAS, the City and the Developer desire to further amend the Redevelopment Agreement and the Indenture in connection with additional redevelopment activities to be undertaken within the redevelopment area described in the Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ST. CHARLES, MISSOURI, AS FOLLOWS:

Section 1. The City Council hereby approves the following documents, in substantially the forms presented to and reviewed by the City Council at this meeting and attached to this Ordinance (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officer or officers of the City executing such documents, such officer's or officers' signatures thereon being conclusive evidence of his, her or their approval thereof:

(a) Second Amendment to Redevelopment Agreement (the "Second Amendment to Redevelopment Agreement") between the City and the Developer, attached hereto as Exhibit A;

(b) Third Supplemental Amendment to Series 1997 Indenture (the "Third Amendment to Indenture") between the City and the Trustee, attached hereto as Exhibit B; and

(c) Federal Tax Certificate (the "Federal Tax Certificate") by the City, attached hereto as Exhibit C.

Section 2. The Mayor is hereby authorized and directed to execute and deliver, on behalf of the City, the Second Amendment to Redevelopment Agreement, the Third Amendment to Indenture, the Federal Tax Certificate and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance. The City Clerk is hereby authorized and directed to attest to the Second Amendment to Redevelopment Agreement, the Third Amendment to Indenture, the Federal Tax Certificate and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 3. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Second Amendment to Redevelopment Agreement, the Third Amendment to Indenture and the Federal Tax Certificate.

Section 4. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that (a) the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has or would have enacted the valid sections without the void ones, and (b) the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 5. This Ordinance shall be in full force and effect from and after the date of its passage by the City Council and approval by the Mayor.



Date Passed

Date Approved by Mayor

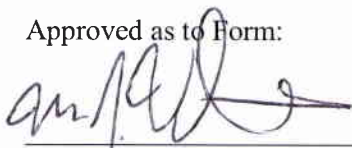
Dave Beckering, Presiding Officer

Sally A. Faith, Mayor

Attest:

City Clerk

Approved as to Form:

 2-26-2014

Michael J. Valenti, City Attorney

T:\ORDINANC\West 370 TIF 2nd Amend Redev Agmt 2-13-2014.docx

EXHIBIT A

FORM OF SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT

SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT (this “Second Amendment”) is made and entered into as of March __, 2014, by and between the **CITY OF ST. CHARLES, MISSOURI**, an incorporated political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the “City”), and **MB PROPERTIES, INC.** (as successor in interest to M.B. Properties, L.L.C.), a Missouri corporation (the “Developer”). All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Article I** of the hereinafter defined Original Agreement.

RECITALS

1. The City and the Developer entered into a Redevelopment Agreement dated December 22, 1997, as amended by that certain First Amendment to Redevelopment Agreement dated as of January 1, 2005 (the “Original Agreement” and, as amended by this Second Amendment, the “Agreement”).

2. The City and the Developer agree to amend the Original Agreement as herein provided.

NOW, THEREFORE, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

Section 1. Amendment to Definitions. **Section 1.1** of the Original Agreement is hereby amended by deleting the definitions of Indenture, Issuance Costs, Subordinate TIF Notes and Trustee and inserting the following definitions:

“Fountain Lakes” means Fountain Lakes Land Holding, LLC, the owner of the South Property.

“Indenture” means the Trust Indenture dated as of December 1, 1997, by and between the City and the Trustee, as amended by the First Amendment to Indenture, the Second Amendment to Indenture, the Third Amendment to Indenture, and as further amended and supplemented from time to time in accordance with its terms.

“Second Amendment” means this Second Amendment to Redevelopment Agreement dated as of March __, 2014.

“South Property” means the undeveloped portions of the Redevelopment Area located south of Highway 370 and west of Elm Street.

“Subordinate TIF Notes” means, collectively, the Tax-Exempt Subordinate TIF Notes and the Taxable Subordinate TIF Notes.

“Tax-Exempt Subordinate TIF Notes” means the portion of the City’s Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) (R-2 and R-3 only) reissued as the City’s Subordinate Tax-Exempt Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project).

“Taxable Subordinate TIF Notes” means the portion of the City’s Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) (R-2 and R-3 only) reissued as the City’s Subordinate Taxable Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project).

“Third Amendment to Indenture” means the Third Supplemental Amendment to Series 1997 Indenture dated as of March __, 2014, between the City and the Trustee.

“Trustee” means The Bank of New York Mellon Trust Company, N.A. (as successor to The Bank of New York Trust Company, N.A.), its successors and assigns and any other association or corporation which at any time may be substituted in its place pursuant to, and at the time serving as trustee under, the Indenture.

Section 2. Amendment to Section 5.1 of the Original Agreement. Section 5.1 of the Original Agreement is hereby amended to read as follows:

The City agrees to issue the Priority TIF Notes and the Subordinate TIF Notes in substantially the forms attached to the Second Amendment to Indenture, with such changes thereto as may be authorized by the Third Amendment to Indenture. The Series 2005A Priority Notes shall bear interest at a rate of 6.70% per annum. The Series 2005B Priority Notes shall bear interest at a rate of 4.00% per annum. The Tax-Exempt Subordinate TIF Notes shall bear interest at a rate of 7.00% per annum. The Taxable Subordinate TIF Notes shall bear interest at a rate of 8.50% per annum. The TIF Notes shall mature on December 8, 2020 (subject to redemption and payment prior to maturity as provided in the Indenture).

Section 3. Amendment to Section 6.1 of the Original Agreement. Section 6.1 of the Original Agreement is hereby amended to read as follows:

The City agrees to cause its Director of Finance or other financial officer to maintain the Special Allocation Fund. Subject to the requirements of the TIF Act, the City shall promptly, upon receipt thereof, deposit the TIF Revenues into the Special Allocation Fund. Moneys in the Special Allocation Fund shall be applied as set forth in the Indenture.

Section 4. Amendment to Section 7.2 of the Original Agreement. Section 7.2 of the Original Agreement is hereby amended by adding the following sentence thereto:

Notwithstanding any provision of this Agreement to the contrary, if (a) Fountain Lakes does not complete the work described in **Section 10.1** within the time prescribed therein (as evidenced by the City’s acceptance of a Certificate of Substantial Completion) or (b) Fountain Lakes fails to provide evidence to the

City, within 10 days request therefor, that Fountain Lakes maintains the insurance required by **Section 10.1(e)**, the City may, without further notice or opportunity to cure, cancel all TIF Notes theretofore issued.

Section 5. Amendment to Section 9.1 of the Original Agreement. Section 9.1 of the Original Agreement is hereby amended to read as follows:

This Agreement, and all of the rights and obligations of the parties hereunder, shall terminate on the earliest of: (a) December 8, 2020; (b) the delivery of a written notice by the Developer that this Agreement has been terminated pursuant to **Section 7.1** hereof; or (c) termination by the City pursuant to **Section 7.2** hereof.

Section 6. Provisions Relating to Additional Work. The Original Agreement is hereby amended by adding a new **Section 10.1** which reads as follows:

10.1. Additional work to be completed by Fountain Lakes.

(a) As consideration for the City's agreement to enter into the Second Amendment, Fountain Lakes agrees to raise the South Property as follows:

(1) If the Federal Emergency Management Agency ("FEMA") finalizes the Base Flood Elevations for the South Property in sufficient time for Fountain Lakes to complete the work within four (4) years of the date of the Second Amendment, Fountain Lakes shall raise the South Property in accordance with FEMA's Base Flood Elevation.

(2) If FEMA does not advise of Base Flood Elevations in sufficient time to allow Fountain Lakes to complete the additional work in accordance with paragraph (1) above, Fountain Lakes shall raise the South Property to the elevations shown in the drawing attached hereto as **Exhibit B** within four (4) years of the date of the Second Amendment.

(b) Upon completion of this additional work, Fountain Lakes shall submit to the City a Certificate of Substantial Completion for review and approval in the manner provided in **Section 3.6**, with such changes thereto as are necessary to reflect the additional work completed. If the Certificate of Substantial Completion is not approved within four (4) years from the date of the Second Amendment (subject to any extensions permitted by **Section 7.5**), Fountain Lakes shall immediately pay the City an amount equal to all debt service paid on the Tax-Exempt Subordinate TIF Notes.

(c) Notwithstanding anything herein to the contrary, the City, its elected officials, officers, employees, agents and independent contractors shall not be liable to Fountain Lakes for damages or otherwise in the event that all or any part of the TIF Act, or any ordinance adopted in connection with the TIF Act, this Agreement, the Redevelopment Plan or the TIF Notes, is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal

have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or Fountain Lakes is prevented from enjoying the rights and privileges hereof. This provision shall survive termination or expiration of this Agreement.

(d) Notwithstanding anything to the contrary contained herein, (i) Fountain Lakes shall release, indemnify, defend and hold harmless the City, its elected officials, officers, employees, agents and independent contractors (collectively, the "City Indemnified Parties") from and against any and all suits, claims, costs and attorneys' fees incurred by any of them, resulting from, arising out of, or in any way connected with the Second Amendment, the TIF Notes, or the construction of the work described above, to the same extent as the Developer is obligated to do so in **Section 7.16**, (ii) the Developer is not obligated to indemnify the City Indemnified Parties with respect to the Second Amendment, the TIF Notes or the work to be performed by Fountain Lakes pursuant to this Section, but agrees to release the City Indemnified Parties from any and all claims associated with such work, and (iii) Fountain Lakes shall release, indemnify and hold harmless the Developer, its members, officers, employees and agents with respect to any claims or liability resulting from the work described above. This provision shall survive termination or expiration of this Agreement.

(e) Simultaneously with the delivery of the Second Amendment and annually thereafter, Fountain Lakes shall provide to the City evidence of contractual liability insurance (in form and substance reasonably acceptable to the City Attorney) covering Fountain Lake's obligations to indemnify the City, by an insurance company with a rating by a reputable rating agency indicating excellent or superior financial strength (i.e., an A.M. Best rating of "A-" or better). Fountain Lakes agrees to provide immediate written notice to the City if the cancellation, termination, expiration or modification of the applicable contractual liability policy occurs. The insurance required by this Section shall have coverage of not less than \$2,000,000 and shall name the City as an additional insured.

(f) Notwithstanding anything herein to the contrary, none of Fountain Lakes' officers, managers, members, employees, agents, or independent contractors, nor any of their successors, assigns and nominees shall be personally liable hereunder and no remedy hereunder shall be construed or enforced as to constitute a personal liability of any of the aforesaid.

(g) In the event a third party brings an action against any of the City Indemnified Parties as set forth in **Section 10.1(d)**, Fountain Lakes may, at its option, assume the defense of such claim or action (including, without limitation, to settle or compromise any claim or action for which Fountain Lakes has assumed the defense) with counsel of Fountain Lakes' choosing, and the parties expressly agree that so long as no conflicts of interest exist between them, the

same attorney or attorneys may simultaneously represent the City and Fountain Lakes in any such proceeding.

Section 7. Provisions Relating to Pharma Medica Chapter 100 Tax Abatement. The Original Agreement is hereby amended by adding a new **Section 10.2** which reads as follows:

10.2. Pharma Medica Chapter 100 Tax Abatement. As further consideration for the City's agreement to enter into the Second Amendment, the Developer consents to the transfer to the City of that certain property located at 400 Fountain Lakes Blvd. (County Parcel ID# 5-0077-9744-00-015A.00000000) and owned by Gateway RE I, Inc., in connection with the City's offer of incentives to Pharma Medica Research Inc. pursuant to Chapter 100 of the Missouri Revised Statutes. Attached as **Exhibit A** hereto are the consents of holders of 100% of the TIF Notes to such transfer.

Section 8. Provisions Relating to Responsibilities Under the Indenture. The Original Agreement is hereby amended by adding a new **Section 10.3** which reads as follows:

10.3. Fountain Lake Responsibilities Under the Indenture. Fountain Lakes hereby agrees to perform the responsibilities assigned thereto pursuant to **Section 1111** of the Indenture. Fountain Lakes acknowledges that performance of such responsibilities is a prerequisite under the Indenture for calculating debt service payments for the Subordinate TIF Notes (as defined in the Indenture).

Section 9. Applicability of the Original Agreement. Except as otherwise provided in this Second Amendment, the provisions of the Original Agreement are hereby ratified, approved and confirmed. This Second Amendment shall be construed as having been authorized, executed and delivered under the provisions of **Section 7.11** of the Original Agreement.

Section 10. Severability. If any provision of this Second Amendment shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 11. Execution in Counterparts. This Second Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12. Governing Law. The Agreement, including without limitation this Second Amendment, shall be governed exclusively by and be construed in accordance with the applicable laws of the State of Missouri.

IN WITNESS WHEREOF, the City and the Developer have caused this Second Amendment to be executed in their respective names and the City has caused its seal to be affixed hereto and attested as of the date first above written.

CITY OF ST. CHARLES, MISSOURI

By: _____
Name: Sally Faith
Title: Mayor



[SEAL]

ATTEST:

Name: Laura Whitehead
Title: City Clerk

The execution of this Second Amendment by MB Properties, Inc. will not require MB Properties, Inc. to undertake, complete or otherwise perform any responsibility of Fountain Lakes Land Holding, LLC described herein.

MB PROPERTIES, INC.

By: _____
Name:
Title:

JOINDER

The undersigned hereby agrees to be join in and to be bound by the terms of Sections 4, 6 and 8 hereof.

**FOUNTAIN LAKES LAND HOLDING,
LLC**

By: _____
Name:
Title:

EXHIBIT A

[Written consents to transfer of Gateway RE I/Pharma Medica Property]

100-456000
 100-456000
 100-456000

EXHIBIT B

FORM OF THIRD AMENDMENT TO INDENTURE

THIRD SUPPLEMENTAL AMENDMENT TO SERIES 1997 INDENTURE

THIS THIRD SUPPLEMENTAL AMENDMENT TO SERIES 1997 INDENTURE (this “Third Amendment”) is made and entered into as of the ____ day of March, 2014, by and between the **CITY OF ST. CHARLES, MISSOURI** (the “City”), an incorporated political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri, and **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.** (as successor to The Bank of New York Trust Company, N.A.), a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set out under the laws of the United States of America, and having a corporate trust office located in St. Louis, Missouri, as trustee (the “Trustee”). All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Article I** of the hereinafter defined Original Indenture.

RECITALS

1. The City and the Trustee entered into a Trust Indenture dated as of December 1, 1997 (the “Series 1997 Indenture”), as amended by the First Supplemental Amendment to Series 1997 Indenture dated as of May 1, 2001 (the “First Amendment”) and the Second Supplemental Amendment to Series 1997 dated as of January 1, 2005 (the “Second Amendment”). The Series 1997 Indenture as amended by the First Amendment and the Second Amendment is hereinafter referred to as the “Original Indenture.” The Original Indenture, as further amended by this Third Amendment, is hereinafter referred to as the “Indenture.”

2. The City and the Trustee agree to amend the Original Indenture as herein provided.

3. The amendments to the Original Indenture set forth in this Third Amendment will enhance the security afforded to the holders of the Notes.

NOW, THEREFORE, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

Section 1. Amendment to Definitions. **Section 101** of the Original Indenture is hereby amended by deleting the definitions of Approved Investors, Series 2005 Cost of Issuance, Series 2005 Tax Certificate, Subordinate TIF Notes and Trustee and inserting the following definitions:

“Approved Investors” means Fountain Lakes Land Holding, LLC, an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, or any general business corporation or enterprise with total assets in excess of \$100,000,000.

“City Administrative Fee” means an amount equal to five percent (5.0%) of the total amount transferred by the City to the Trustee pursuant to **Section 402(a)** hereof (but not to exceed \$75,000 per year) in order to reimburse the City for its administrative and professional service costs and expenses (including staff time) in connection with the performance of its obligations under the Redevelopment Plan and the Agreement.

“Costs of Issuance” means the costs incurred by the City in connection with the delivery of the Second Amendment, this Third Amendment, the Series 2005A Priority Notes, the Series 2005B Priority

Notes and the Subordinate TIF Notes (including any reissuances thereof), as listed on **Exhibit B** to this Third Amendment.

“Fountain Lakes” means Fountain Lakes Land Holding, LLC, and its successors and assigns under the School District Agreement.

“School District Agreement” means the School District Payment Agreement dated as of _____, 2014, between Fountain Lakes and the Orchard Farm School District.

“Subordinate TIF Notes” means, collectively, the Tax-Exempt Subordinate TIF Notes and the Taxable Subordinate TIF Notes.

“Tax Certificate” means the Federal Tax Certificate dated as of March __, 2014, by the City, as may be amended from time to time.

“Tax-Exempt Subordinate TIF Notes” means the portion of the City’s Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) reissued as the City’s Subordinate Tax-Exempt Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project).

“Taxable Subordinate TIF Notes” means the portion of the City’s Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) reissued as the City’s Subordinate Taxable Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project).

“Trustee” means The Bank of New York Mellon Trust Company, N.A. (as successor to The Bank of New York Trust Company, N.A.), its successors and assigns and any other association or corporation which at any time may be substituted in its place pursuant to, and at the time serving as trustee under, the Indenture.

Section 2. Amendment to Section 201. Subsection (b) and Subsection (c) of **Section 201** of the Original Indenture are hereby amended to read as follows:

(b) *Title of Notes.* The Priority TIF Notes authorized to be issued under this Indenture shall be designated “Priority Tax Increment Revenue Notes, Series 2005A (M.B. Properties, L.L.C. Project)” and “Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project).” The Subordinate TIF Notes authorized to be issued under this Indenture shall be designated “Tax-Exempt Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project)” and “Taxable Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project).” The Notes may have such further appropriate particular designation added to or incorporated in such title for the Notes of any particular series as the City may determine.

(c) *Form of Notes.* The Notes shall be substantially in the forms set forth in **Exhibit A** to this Third Amendment, which Exhibit is incorporated herein by reference, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

Section 3. Amendment to Section 202. A new subsection (d) of **Section 202** is hereby created to read as follows:

(d) **NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTES TO THE CONTRARY, THE NOTES ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN SECTION 7.2 OF THE REDEVELOPMENT AGREEMENT.**

Section 4. Amendment to Section 205. Subsection (b) of **Section 205** of the Original Indenture is hereby amended to read as follows:

(b) The Notes shall mature on December 8, 2020 (subject to redemption and payment prior to maturity as provided in **Article III**) and shall bear interest from their registration date or from the most recent Interest Payment Date to which interest has been paid or duly provided for. The Series 2005A Priority Notes shall bear interest at the rate of 6.70% per annum, the Series 2005B Priority Notes shall bear interest at the rate of 4.00% per annum, the Tax-Exempt Subordinate TIF Notes shall bear interest at the rate of 7.00% per annum and the Taxable Subordinate TIF Notes shall bear interest at the rate of 8.50% per annum (interest on all Notes to be computed on the basis of a 360-day year of twelve 30-day months). Interest shall be payable semiannually on March 1 and September 1 in each year, commencing on March 1, 2005, with a final payment due on December 8, 2020. Interest which accrues but remains unpaid on any Interest Payment Date shall not be compounded. To the extent that moneys on deposit in the Revenue Fund are insufficient to pay all interest then due and payable with respect to a particular series of Notes on any Interest Payment Date, payments of interest shall be allocated among the owners of such series of Notes on a pro rata basis relative to the Outstanding principal amount of each Note of such series, and each payment to a Noteholder shall first be applied to pay accrued interest allocable to Surrendered Priority TIF Notes or Surrendered Subordinate TIF Notes, as the case may be, and thereafter to the Priority TIF Notes or Subordinate TIF Notes, as the case may be.

Section 5. Amendment to Section 302. Subsection (b) of **Section 302** of the Original Indenture is hereby amended to read as follows:

(b) *Special Mandatory Redemption.* The Notes are subject to special mandatory redemption by the City on any Interest Payment Date, at the redemption price of 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to the amount which, (i) is on deposit in the Revenue Fund and available for redemption of the Notes 3 days prior to each Interest Payment Date and (ii) is on deposit in the Revenue Fund and available for payment of principal of the Notes on December 8, 2020. Notwithstanding any provision herein to the contrary, any redemption pursuant to this section shall apply first to any Outstanding Series 2005A Notes, then to any Outstanding Series 2005B Notes and then, after the redemption of all of the Outstanding Priority TIF Notes, to the Subordinate TIF Notes (based on the amount of funds to be available for the payment thereof in the applicable account of the Debt Service Fund).

Section 6. Amendment to Section 304. Subsection (a) of **Section 304** of the Original Indenture is hereby amended to read as follows:

(a) Unless waived by any Owner of Notes to be redeemed, official notice of any

redemption of any Note shall be given by the Trustee on behalf of the City by mailing a copy of an official redemption notice by first class mail, postage prepaid, and email (if an email address is provided to the Trustee) at least 3 days prior to the date fixed for redemption to the Owner of the Note or Notes to be redeemed at the address shown on the Register; provided, however, that failure to give such notice by mailing as aforesaid to any Owner or any defect therein as to any particular Note shall not affect the validity of any proceedings for the redemption of any other Notes.

Section 7. Amendment to Section 401. Subsection (b) of **Section 401** of the Original Indenture is hereby amended to read as follows:

(b) Debt Service Fund, which shall contain a Series A Account and a Series B Account.

Section 8. Amendment to Section 402. **Section 402** of the Original Indenture is hereby amended to read as follows:

(a) On each February 22 and August 22 (or such later date as may be agreed to by the Trustee, the Owners and the City Finance Director so long as such date is prior to the next Interest Payment Date) (each, a "Transfer Date") while the Notes remain Outstanding, and on December 8, 2020, the City shall transfer all Net Proceeds to the Trustee for deposit into the Revenue Fund.

(b) Moneys in the Revenue Fund on the Transfer Date shall be disbursed by the Trustee on each Interest Payment Date for the purposes and in the amounts as follows:

First, to the United States of America, an amount sufficient to pay rebate, if any, owed under Section 148 of the Code;

Second, to the payment of Costs of Issuance, upon presentation to the Trustee of invoices therefor in amounts not to exceed the amounts listed on **Exhibit B** to this Second Amendment;

Third, to the Trustee or any Paying Agent, an amount sufficient for payment of any fees and expenses which are due and owing to the Trustee or any Paying Agent, upon delivery to the City and the Developer of an invoice for such amounts;

Fourth, on each March 1 Interest Payment Date only, to the City, an amount equal to the City Administrative Fee;

Fifth, to the Taxing Districts, an amount equal to fifteen percent (15%) of the amount on deposit in the Pilots Account of the Special Allocation Fund and transferred by the City to the Trustee pursuant to **Section 402(a)** hereof, said amount to be paid to the Taxing Districts as "surplus funds" in accordance with Section 99.850 of the Act; provided, however, that whenever the total amount of such payments to the Taxing Districts in a calendar year exceeds \$343,643, then no further payments shall thereafter be made to any of the Taxing Districts pursuant to this paragraph *Fifth* for the remainder of such calendar year;

Sixth, to the Debt Service Fund, an amount sufficient to pay (1) the interest becoming due and payable on the Priority TIF Notes on such Interest Payment Date plus (2) accrued interest on the Surrendered Priority TIF Notes to and including the Closing Date;

Seventh, to the Debt Service Fund, an amount sufficient to pay the principal of and accrued interest on the Series 2005A Priority Notes (1) which are subject to redemption on such Interest Payment Date pursuant to **Section 302** hereof and (2) on December 8, 2020;

Eighth, to the Debt Service Fund, an amount sufficient to pay the principal of and accrued interest on the Series 2005B Priority Notes (1) which are subject to redemption on such Interest Payment Date pursuant to **Section 302** hereof and (2) on December 8, 2020;

Ninth, beginning with the September 1, 2014 Interest Payment Date, to the Series B Account of the Debt Service Fund, (1) the amount specified by Fountain Lakes Land Holding, LLC, pursuant to **Section 1111**, or (2) if no Tax-Exempt Subordinate TIF Notes are Outstanding, all remaining moneys, which shall be applied to the payment of principal of and accrued interest on the Taxable Subordinate TIF Notes that are due and payable or subject to redemption on such Interest Payment Date; and

Tenth, to the Series A Account of the Debt Service Fund, all remaining moneys, which shall be applied to the payment of principal of and accrued interest on the Tax-Exempt Subordinate TIF Notes that are due and payable or subject to redemption on such Interest Payment Date.

(c) After payment in full of the principal of and interest on the Tax-Exempt Subordinate TIF Notes, any moneys remaining in the Series A Account of the Debt Service Fund shall be transferred to the Series B Account of the Debt Service Fund.

(d) After payment in full of the principal of and interest on the Notes (or provision has been made for the payment thereof as specified in this Indenture) and the fees, charges and expenses of the Trustee and any Paying Agents, and any other amounts required to be paid under this Indenture, all amounts remaining on deposit in the Revenue Fund shall be paid to the City for deposit into the Special Allocation Fund.

Section 9. Subsection (a) of **Section 608** of the Original Indenture is hereby amended to read as follows:

(a) The City shall not use or permit the use of any proceeds of the Notes or any other funds of the City, and the Trustee shall not use or permit the use of any proceeds of the Notes or any other funds of the City held by the Trustee, directly or indirectly, to acquire any securities or obligations, and shall not use or permit the use of any amounts received by the City or the Trustee in any manner, and shall not take or permit to be taken any other action or actions, which would cause any Note to be an "arbitrage bond" within the meaning of Section 148(a) of the Code, or "federally guaranteed" within the meaning of Section 149(b) of the Code. If at any time the City is of the opinion that for purposes of this subsection (a) it is necessary to restrict or limit the

yield on or change in any way the investment of any moneys held by the Trustee under the Indenture, the Trustee shall take such action as may be necessary in accordance with such instructions. The City and the Trustee shall be deemed in compliance with this Section to the extent they follow the Arbitrage Instructions, the Tax Certificate or an opinion of Bond Counsel with respect to the investment of funds hereunder.

Section 10. Amendment to Section 1102. Subsection (b) of **Section 1102** of the Original Indenture is hereby amended to read as follows:

(b) To the Trustee at:

The Bank of New York Mellon Trust Company, N.A.
The Lammert Building
911 Washington Avenue
St. Louis, Missouri 63101
Telephone: (314) 613-8200
Facsimile: (314) 613-8238

Section 11. Provisions Related to Electronic Communications. The Original Indenture is hereby amended by adding a new **Section 1111** to read as follows:

Section 1111. School District Payment Calculation. In order to complete the payment calculation described in **Section 2** of the School District Agreement (the "School District Payment Calculation"), the City shall provide Fountain Lakes with written notice of the amount of funds transferred from the Pilots Account of the Special Allocation Fund to the Trustee for deposit to the Revenue Fund established under the Indenture. So long as the TIF Notes are outstanding, Fountain Lakes shall provide the Trustee, the School District and the City with a written School District Payment Calculation no later than (a) each February 25 with respect to the payment due to the School District under the School District Agreement on each March 15 and (b) each August 25 with respect to the payment due to the School District under the School District Agreement on each September 15.

Section 12. Provisions Related to Electronic Communications. The Original Indenture is hereby amended by adding a new **Section 1112** to read as follows:

Section 1112. Electronic Communications. The Trustee shall have the right to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the City shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions and containing specimen signatures of such designated persons, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees: (a) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the

Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties; (b) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the method(s) selected by the City; and (c) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

Section 13. Applicability of the Original Indenture. Except as otherwise provided in this Third Amendment, the provisions of the Original Indenture are hereby ratified, approved and confirmed. This Third Amendment shall be construed as having been authorized, executed and delivered under the provisions of **Section 1001(e)** of the Series 1997 Indenture.

Section 14. Substitution of Notes. Upon execution and delivery of this Third Amendment, all Outstanding Notes shall be immediately cancelled and the Trustee shall authenticate and deliver substitute Notes in the form set forth in **Exhibit A** attached hereto. The Trustee and the City acknowledge that the only Outstanding Notes as of the effective date of this Third Amendment are the Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project), which shall be substituted for \$ _____ principal amount of Tax-Exempt Subordinate TIF Notes and \$ _____ principal amount of Taxable Subordinate TIF Notes.

Section 15. Severability. If any provision of this Third Amendment is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 16. Execution in Counterparts. This Third Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 17. Governing Law. The Indenture, including, without limitation, this Third Amendment, shall be governed exclusively by and be construed in accordance with the applicable laws of the State of Missouri.

Section 18. Consent to Second Amendment to Redevelopment Agreement. The Trustee hereby consents to the Second Amendment to Redevelopment Agreement pursuant to **Section 610(c)** of the Series 1997 Indenture.

IN WITNESS WHEREOF, the City of St. Charles, Missouri has caused these presents to be signed in its name and behalf and its corporate seal to be hereunto affixed and attested by its duly authorized officers, and to evidence its acceptance of the trusts hereby created, The Bank of New York Trust Company, N.A. has caused these presents to be signed in its name and behalf and its corporate seal to be hereunto affixed and attested by its duly authorized officers, all as of the day and year first above written.

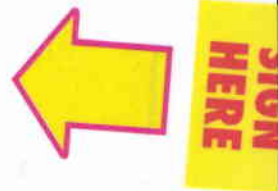
CITY OF ST. CHARLES, MISSOURI

[SEAL]

By _____
Mayor

ATTEST:

City Clerk



[Third Supplemental Amendment to 1997 Indenture]

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as Trustee**

By _____
Title: _____

EXHIBIT A TO THIRD SUPPLEMENTAL AMENDMENT TO SERIES 1997 INDENTURE

FORM OF NOTES

***THIS NOTE OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR
NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.***

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

**Registered
No. R- _____**

**Registered
Up to \$ _____
(See Schedule A attached)**

CITY OF ST. CHARLES, MISSOURI

**[PRIORITY] [TAX-EXEMPT SUBORDINATE] [TAXABLE SUBORDINATE]
TAX INCREMENT REVENUE NOTE
SERIES [2005A] [2005B] [2005]
(M.B. PROPERTIES, L.L.C. PROJECT)**

Rate of Interest: _____ % Dated Date: _____ Maturity Date: December 8, 2020

REGISTERED OWNER:

PRINCIPAL AMOUNT: See Schedule A attached hereto

The **CITY OF ST. CHARLES, MISSOURI**, an incorporated political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the "City") for value received, hereby promises to pay to the Registered Owner shown above, or registered assigns, the Principal Amount shown from time to time on **Schedule A** attached hereto on the Maturity Date shown above, and to pay interest thereon from the effective date of registration shown from time to time on the Principal Amount shown above or from the most recent Interest Payment Date to which interest has been paid or duly provided for, at the Rate of Interest per annum shown above. Interest shall be payable semiannually on March 1 and September 1 in each year, beginning on March 1, 2005, with a final payment due on December 8, 2020 (each, an "Interest Payment Date"). Interest shall be calculated on the basis of a 360-day year of twelve 30-day months. Interest which accrues but remains unpaid on any Interest Payment Date shall not be compounded.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in the Indenture (as hereinafter defined).

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS NOTE TERMINATE ON DECEMBER 8, 2020, WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST THEREON HAS BEEN PAID IN FULL. NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE INDENTURE TO THE CONTRARY, THE NOTES ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN SECTION 7.2 OF THE REDEVELOPMENT AGREEMENT (AS DEFINED IN THE INDENTURE). REFERENCE IS MADE TO THE INDENTURE FOR A COMPLETE DESCRIPTION OF THE CITY'S OBLIGATIONS HEREUNDER.

The principal of this Note shall be paid at maturity or upon earlier redemption to the person in whose name this Note is registered at the maturity or redemption date thereof. The interest payable on this Note on any Interest Payment Date shall be paid by The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri (the "Trustee") to the person in whose name this Note is registered on the Register at the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Trustee to the address of such registered owner shown on the Register or (b) in the case of an interest payment to any registered owner of \$500,000 or more in aggregate principal amount of Notes, by electronic transfer to such registered owner upon written notice given to the Trustee by such registered owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number and account number to which such registered owner wishes to have such transfer directed. The principal or redemption price of and interest on the Notes shall be payable by check or draft in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

[Series 2005A Priority Notes: This Note is one of an authorized series of fully registered notes of the City designated "City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005A (M.B. Properties, L.L.C. Project)," issued in the aggregate principal amount of \$3,050,000 (the "Series 2005A Notes"). Concurrently with the issuance of the Series 2005A Notes, the City is issuing its City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project)," issued in the aggregate principal amount of \$2,730,000 (the "Series 2005B Notes") and its City of St. Charles, Missouri, Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project)" in the aggregate principal amount of up to \$9,000,000 (the "Subordinate TIF Notes" and, collectively with the Series 2005A Notes and the Series 2005B Notes, the "Notes"). The Series 2005A Notes are issued, with respect only to the payment of interest, on a parity basis with the Series 2005B Notes. The Series 2005A Notes are senior in right of payment with respect to principal to the Series 2005B Notes. The Subordinate TIF Notes are subordinate in right of payment of interest and principal to the Series 2005A Notes and the Series 2005B Notes. The Notes are being issued to refund prior notes of the City issued for the purpose of paying a portion of the redevelopment project costs in connection with a Redevelopment Plan for the West 370 Redevelopment Area, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the "Act"), and pursuant to a Trust Indenture dated as of December 1, 1997, as amended and supplemented, between the City and the Trustee (as amended and supplemented, the "Indenture").]

[Series 2005B Priority Notes: This Note is one of an authorized series of fully registered notes of the City designated "City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project)," issued in the aggregate principal amount of \$2,730,000 (the "Series 2005B Notes"). Concurrently with the issuance of the Series 2005B Notes, the City is issuing its City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005A (M.B.

Properties, L.L.C. Project),” issued in the aggregate principal amount of \$3,050,000 (the “Series 2005A Notes”) and its City of St. Charles, Missouri, Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project)” in the aggregate principal amount of up to \$9,000,000 (the “Subordinate TIF Notes” and, collectively with the Series 2005A Notes and the Series 2005B Notes, the “Notes”). The Series 2005B Notes are issued, with respect only to the payment of interest, on a parity basis with the Series 2005A Notes. The Series 2005A Notes are senior in right of payment with respect to principal to the Series 2005B Notes. The Subordinate TIF Notes are subordinate in right of payment of interest and principal to the Series 2005A Notes and the Series 2005B Notes. The Notes are being issued to refund prior notes of the City issued for the purpose of paying a portion of the redevelopment project costs in connection with a Redevelopment Plan for the West 370 Redevelopment Area, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the “Act”), and pursuant to a Trust Indenture dated as of December 1, 1997, as amended and supplemented, between the City and the Trustee (as amended and supplemented, the “Indenture”).]

[Tax-Exempt Subordinate TIF Notes: This Note is one of an authorized series of fully registered notes of the City designated “City of St. Charles, Missouri, Tax-Exempt Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project),” issued in the aggregate principal amount of \$_____ (the “Tax-Exempt Subordinate TIF Notes”). Concurrently with the issuance of the Tax-Exempt Subordinate TIF Notes, the City is issuing its City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005A (M.B. Properties, L.L.C. Project),” issued in the aggregate principal amount of \$3,050,000 (the “Series 2005A Notes”), its City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project),” issued in the aggregate principal amount of \$2,730,000 (the “Series 2005B Notes”), and its City of St. Charles, Missouri Taxable Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) in the aggregate principal amount of \$_____ (the “Taxable Subordinate TIF Notes and together with the Tax-Exempt Subordinate TIF Notes, the “Subordinate TIF Notes” and collectively with the Series 2005A Notes, the Series 2005B Notes and the Taxable Subordinate TIF Notes, the “Notes”). The Subordinate TIF Notes are subordinate in right of payment of interest and principal to the Series 2005A Notes and the Series 2005B Notes. The Series 2005A Notes are issued, with respect only to the payment of interest, on a parity basis with the Series 2005B Notes. The Series 2005A Notes are senior in right of payment with respect to principal to the Series 2005B Notes. The Tax-Exempt Subordinate TIF Notes are on a parity basis with the Taxable Subordinate TIF Note (based on the amount of funds to be available for the payment thereof in the applicable account of the Debt Service Fund). The Notes are being issued to refund prior notes of the City issued for the purpose of paying a portion of the redevelopment project costs in connection with a Redevelopment Plan for the West 370 Redevelopment Area, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the “Act”), and pursuant to a Trust Indenture dated as of December 1, 1997, as amended and supplemented, between the City and the Trustee (as amended and supplemented, the “Indenture”).]

[Taxable Subordinate TIF Notes: This Note is one of an authorized series of fully registered notes of the City designated “City of St. Charles, Missouri, Taxable Subordinate Tax Increment Revenue Notes, Series 2005(M.B. Properties, L.L.C. Project),” issued in the aggregate principal amount of \$_____ (the “Taxable Subordinate TIF Notes”). Concurrently with the issuance of the Tax-Exempt Subordinate TIF Notes, the City is issuing its City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005A (M.B. Properties, L.L.C. Project),” issued in the aggregate principal amount of \$3,050,000 (the “Series 2005A Notes”), its City of St. Charles, Missouri, Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project),” issued in the aggregate

principal amount of \$2,730,000 (the "Series 2005B Notes"), and City of St. Charles, Missouri Tax-Exempt Subordinate Tax Increment Revenue Notes, Series 2005 in the aggregate principal amount of \$_____ (M.B. Properties, L.L.C. Project) (the "Tax-Exempt Subordinate TIF Notes" and together with the Taxable Subordinate TIF Notes, the "Subordinate TIF Notes" and collectively with the Series 2005A Notes, the Series 2005B Notes and the Tax-Exempt Subordinate TIF Notes, the "Notes"). The Subordinate TIF Notes are subordinate in right of payment of interest and principal to the Series 2005A Notes and the Series 2005B Notes. The Series 2005A Notes are issued, with respect only to the payment of interest, on a parity basis with the Series 2005B Notes. The Series 2005A Notes are senior in right of payment with respect to principal to the Series 2005B Notes. The Taxable Subordinate TIF Notes are on a parity basis with the Tax-Exempt Subordinate TIF Note (based on the amount of funds to be available for the payment thereof in the applicable account of the Debt Service Fund). The Notes are being issued to refund prior notes of the City issued for the purpose of paying a portion of the redevelopment project costs in connection with a Redevelopment Plan for the West 370 Redevelopment Area, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the "Act"), and pursuant to a Trust Indenture dated as of December 1, 1997, as amended and supplemented, between the City and the Trustee (as amended and supplemented, the "Indenture").]

The Notes constitute special, limited obligations of the City payable as to principal, premium, if any, and interest solely from (a) Net Proceeds on deposit in the Pilots Account of the Special Allocation Fund, (b) subject to annual appropriation and to the extent permitted by law, Net Proceeds on deposit in the Economic Activity Tax Account of the Special Allocation Fund and (c) from certain other funds and accounts held under the Indenture, after payment of (i) rebatable arbitrage, if any, (ii) Costs of Issuance (as defined in the Indenture), (iii) the fees and expenses of the Trustee or any Paying Agents, (iv) the City's administrative and professional service costs and expenses, and (v) the payments to the Taxing Districts required by the Indenture. Net Proceeds do not include any amount paid under protest until the protest is withdrawn or resolved against the taxpayer nor do Net Proceeds include any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

The Notes shall not constitute debts or liabilities of the City, the State of Missouri or any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction. Neither the City, the Tax Increment Financing Commission of the City of St. Charles, Missouri, the commissioners of said Commission, the officers and employees of the City nor any person executing the Notes shall be personally liable for such obligations by reason of the issuance thereof.

The moneys on deposit in the Pilots Account of the Special Allocation Fund are those payments in lieu of taxes (as defined in Sections 99.805 and 99.845 of the Act) attributable to the increase in the current equalized assessed valuation of all taxable lots, blocks, tracts and parcels of real property (as such tracts are described in **Exhibit A** to the Indenture) in the West 370 Redevelopment Area over and above the certified total initial equalized assessed valuation of such West 370 Redevelopment Area, as described and determined in accordance with Section 99.855 of the Act (herein referred to as "PILOTS"). Moneys on deposit in the Economic Activity Tax Account of the Special Allocation Fund are amounts, subject to annual appropriation, equal to fifty percent (50%) of the total additional revenue from taxes imposed by the City or other taxing districts which are generated by economic activities within the West 370 Redevelopment Area over the amount of such taxes generated by economic activities within the West 370 Redevelopment Area in calendar year 1996 (herein referred to as "EATS"), as described and determined in accordance with Section 99.845.3 of the Act.

PILOTS and, subject to annual appropriation and to the extent permitted by law, EATS, shall be applied to payments on this Note as follows: first, to pay all accrued but unpaid interest; and second, to the extent due or subject to redemption, to pay principal of this Note.

The Notes shall be subject to redemption prior to maturity in accordance with the terms and provisions set forth below. Notwithstanding any provision in the Indenture to the contrary, the Notes shall be redeemed in the following order of priority: (a) first, the Series 2005A Notes, (b) second, the Series 2005B Notes and (c) third, the Subordinate TIF Notes (based on the amount of funds to be available for the payment thereof in the applicable account of the Debt Service Fund).

The Notes are subject to optional redemption by the City in whole at any time or in part on any Interest Payment Date, at a redemption price of 100% of the principal amount of the Notes to be redeemed, plus accrued interest thereon to the date fixed for redemption.

The Notes are subject to special mandatory redemption by the City on any Interest Payment Date, at the redemption price of 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to the amount on deposit in the Revenue Fund and available for redemption of the Notes 3 days prior to each Interest Payment Date.

The Notes are also subject to special mandatory redemption by the City, in whole but not in part, on any date in the event that moneys in the Special Allocation Fund are sufficient to redeem all of the Notes at a redemption price of 100% of the Notes outstanding, together with accrued interest thereon to the date fixed for redemption. Notwithstanding any provision in the Indenture to the contrary, any such redemption shall apply first to any Outstanding Series 2005A Notes, then to any Outstanding Series 2005B Notes and then, after the redemption of all of the Outstanding Priority TIF Notes, to the Subordinate TIF Notes (based on the amount of funds to be available for the payment thereof in the applicable account of the Debt Service Fund).

If any of the Notes are to be called for redemption as aforesaid, notice of redemption, unless waived, is to be given by the Trustee by mailing an official redemption notice by first class mail 5 days prior to the date fixed for redemption to the registered owner of each Note to be redeemed at the address shown on the Register as of the date of such notice, as more fully described in the Indenture. Notice of redemption having been given as aforesaid, the Notes or portions of Notes so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City defaults in the payment of the redemption price) such Notes or portions of Notes shall cease to bear interest, shall no longer be secured by the Indenture and shall not be deemed to be Outstanding under the provisions of the Indenture. Any defect in any notice or the failure of any parties to receive any notice of redemption shall not cause any Note called for redemption to remain Outstanding.

Notes shall be redeemed only in Authorized Denominations. When less than all of the outstanding Notes of any series are to be redeemed and paid prior to maturity, such Notes to be redeemed shall be selected in Authorized Denominations and the principal of each Note so redeemed shall be allocated among the owners of such series of Notes on a pro rata basis relative to the outstanding principal amount of each Note of such series.

The Notes are issuable in the form of fully registered Notes without coupons in Authorized Denominations, except with respect to the Note issued with respect to the final Certificate of Reimbursable Redevelopment Project Costs.

This Note may be transferred or exchanged, as provided in the Indenture, only upon the Register, upon surrender of this Note together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or the registered owner's duly authorized agent. THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER'S ACCEPTANCE HEREOF, THAT THE RIGHT TO TRANSFER, ASSIGN OR NEGOTIATE THIS NOTE SHALL BE LIMITED TO TRANSFER, ASSIGNMENT OR NEGOTIATION TO APPROVED INVESTORS, AS THAT TERM IS DEFINED IN THE INDENTURE. Accordingly, this Note will be transferable only upon prior delivery to the Trustee of a statement, signed by the transferee, showing that such transferee is an Approved Investor. After the Trustee receives the foregoing statement, a new Note of the same maturity and in the same principal amount outstanding as the Note which was presented for transfer or exchange shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City and the Trustee may deem and treat the person in whose name this Note is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

This Note shall not be valid or binding on the City or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon has been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Notes have existed, happened and been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the **CITY OF ST. CHARLES, MISSOURI** has executed this Note by causing it to be signed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk, and its official seal to be affixed or imprinted hereon, and this Note to be dated as of as of the Dated Date shown above.

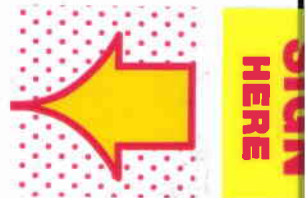
CITY OF ST. CHARLES, MISSOURI

(Seal)

By: _____
Mayor

Attest:

City Clerk



SCHEDULE A

This Note is one of the City of St. Charles, Missouri [Priority][Tax-Exempt Subordinate] [Taxable Subordinate] Tax Increment Revenue Notes, Series [2005A][2005B][2005] (M.B. Properties, L.L.C. Project) described in the within-mentioned Indenture.

[illegible]

- (1) Closing Date, Date of Advance or Interest Payment Date. Advances are limited to one per calendar month.
- (2) Limited to advances of Authorized Denominations, except with respect to an advance pursuant to the final Certificate of Reimbursable Project Costs.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Print or Type Name, Address and Social
Security Number or other Taxpayer Identification Number of Transferee)

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Note on the books kept by the Trustee for the registration thereof, with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Note in ever)' particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution)

By _____

Title: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined by SEC Rule 17Ad-15 (17 CFR 240.17Ad-15).

EXHIBIT B TO THIRD SUPPLEMENTAL AMENDMENT TO SERIES 1997 INDENTURE

COSTS OF ISSUANCE

Series 2005 Issuance/Second Amendment

WM Financial Strategies	\$ 7,500.00
Canyon Research Southwest, Inc.	15,000.00
Gilmore & Bell, P.C.	<u>25,000.00</u>
Subtotal	\$47,500.00

Series 2005 Re-Issuance/Third Amendment

Gilmore & Bell, P.C.	
Subtotal	<hr/>

Total

EXHIBIT C

FORM OF FEDERAL TAX CERTIFICATE

FEDERAL TAX CERTIFICATE

Dated as of March __, 2014

Executed by the

CITY OF ST. CHARLES, MISSOURI

**\$(Principal Amount)
City of St. Charles, Missouri
Subordinate Tax-Exempt Tax Increment Revenue Notes
(M.B. Properties, L.L.C. Project)
Series 2005**

FEDERAL TAX CERTIFICATE

TABLE OF CONTENTS

	<u>Page</u>
PARTIES AND RECITALS.....	1
<u>ARTICLE I</u>	
DEFINITIONS	
Section 1.1. Definitions of Words and Terms.....	2
<u>ARTICLE II</u>	
GENERAL REPRESENTATIONS AND COVENANTS	
Section 2.1. Representations and Covenants of the City	5
Section 2.2. Survival of Representations and Covenants.....	8
<u>ARTICLE III</u>	
ARBITRAGE CERTIFICATIONS AND COVENANTS	
Section 3.1. General	8
Section 3.2. Reasonable Expectations.....	8
Section 3.3. Purpose of Financing	8
Section 3.4. Funds and Accounts.....	8
Section 3.5. Amount and Use of Tax-Exempt Note Proceeds and Other Moneys.....	8
Section 3.6. Multipurpose Issue.....	8
Section 3.7. No Advance Refunding.....	9
Section 3.8. Current Refunding.....	9
Section 3.10. Sinking Funds	9
Section 3.11. Reserve, Replacement and Pledged Funds.....	9
Section 3.12. No Purpose Investment	9
Section 3.13. Price and Yield on Tax-Exempt Notes.....	9
Section 3.14. Miscellaneous Arbitrage Matters	10
Section 3.15. Conclusion	10
<u>ARTICLE IV</u>	
POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES	
Section 4.1. General	10
Section 4.2. Record Keeping, Use of Tax-Exempt Note Proceeds	11
Section 4.3. Temporary Periods/Yield Restriction	11
Section 4.4. Fair Market Value	11
Section 4.5. Arbitrage Requirement.....	12
Section 4.7. Filing Requirements.....	12

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1.	Term of Tax Certificate.....	13
Section 5.2.	Amendments	13
Section 5.3.	Opinion of Bond Counsel	13
Section 5.4.	Reliance.....	13
Section 5.5.	Severability	13
Section 5.6.	Benefit of Agreement.....	13
Section 5.7.	Default; Breach and Enforcement	14
Section 5.8.	Execution in Counterparts.....	14
Section 5.9.	Governing Law	14
Section 5.10.	Electronic Transactions.....	14

Signatures	S-1
------------------	-----

Exhibit A - Debt Service Schedule and Proof of Yield

Exhibit B - IRS Form 8038-G

Exhibit C - Final Allocation; Description of Financed Facility

Exhibit D - Annual Compliance Checklist

* * *

FEDERAL TAX CERTIFICATE

THIS **FEDERAL TAX CERTIFICATE** (this “Tax Certificate”) is executed as of March __, 2014 (the “Reissuance Date”), by the **CITY OF ST. CHARLES, MISSOURI**, an incorporated political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the “City”).

RECITALS

1. The City previously issued \$15,000,000 original principal amount of Tax Increment Revenue Notes, Series 1997 (M.B. Properties, L.L.C. Project) (the “Series 1997 Notes”), consisting of \$6,315,000 original principal amount of Taxable Tax Increment Revenue Notes, Series 1997 (M.B. Properties, L.L.C. Project) and \$8,685,000 original principal amount of Tax Increment Revenue Notes, Series 1997 (M.B. Properties, L.L.C. Project), under a Trust Indenture, dated as of December 1, 1997 (the “Series 1997 Indenture”), between the City and Magna Bank, N.A., as trustee thereunder.

2. The City refinanced the Series 1997 Notes by the issuance of \$3,050,000 Priority Tax Increment Revenue Notes, Series 2005A (M.B. Properties, L.L.C. Project), \$2,730,000 Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project) and not to exceed \$9,000,000 Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) (collectively, the “Series 2005 Notes”), under the Series 1997 Indenture, as amended by the First Supplemental Amendment to Series 1997 Indenture dated as of May 1, 2001 (the “First Amendment”), as further amended by the Second Supplemental Amendment to Series 1997 Indenture dated as of January 1, 2005 (the “Second Amendment”) between the City and The Bank of New York Mellon Trust Company, N.A. (as successor to BNY Trust Company of Missouri, successor trustee to Magna Bank, N.A.), as trustee.

3. In connection with the execution and delivery of the Series 2005 Notes, the City executed a Federal Tax Certificate dated as of January 1, 2005 (the “Series 2005 Tax Certificate”), that included, among other things, representations and covenants in order to establish and maintain the exclusion of the interest on the Series 2005 Notes from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the “Code”) and the regulations and rulings promulgated by the U.S. Treasury Department (the “Regulations”).

4. The Series 1997 Indenture is being further amended and supplemented by the Third Supplemental Amendment to Series 1997 Indenture dated as of March __, 2014 (together with the Series 1997 Indenture, as previously amended and supplemented by the First Amendment and the Second Amendment, the “Indenture”).

5. The City is executing this Tax Certificate to reflect and account for the amendment and supplement of the Indenture, which will result in a deemed sale or exchange and “reissuance” of the outstanding Series 2005 Notes (as reissued, the “Subordinate TIF Notes,” consisting of the Subordinate Tax-Exempt Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) (the “Tax-Exempt Notes”) and the Subordinate Taxable Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project) (the “Taxable Notes”)), for purposes of Code §§ 103, 141-150, and 1001 and the applicable Regulations thereunder. The effective date of this Tax Certificate is March __, 2014 (the “Reissuance Date”), the reissuance date of the Subordinate TIF Notes.

6. For the interest on the Tax-Exempt Notes to be excluded from gross income for federal income tax purposes, the City must comply with certain provisions of the Code and the Regulations regarding the use and investment of the proceeds thereof and certain other money relating thereto.

7. The City has adopted a Tax-Advantaged Financing Compliance Policy and Procedure (the “**Tax Compliance Procedure**”) for the purpose of setting out general procedures for the City to continuously monitor and comply with the federal income tax requirements set out in the Code and the Regulations. This Tax Certificate is entered into as required by the Tax Compliance Procedure, in part, to set out specific tax compliance procedures applicable to the Tax-Exempt Notes.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements set forth in this Tax Certificate, the City represents, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Except as otherwise provided in this Tax Certificate or unless the context otherwise requires, capitalized words and terms used in this Tax Certificate have the same meanings as set forth in the Indenture, and certain other words and phrases have the meanings assigned in Code §§ 103, 141-150 and the Regulations. The following words and terms used in this Tax Certificate have the following meanings:

“**Bona Fide Debt Service Fund**” means a fund, which may include Tax-Exempt Note proceeds, that (a) is used primarily to achieve a proper matching of revenues with principal and interest payments within each year; and (b) is depleted at least once each year, except for a reasonable carryover amount not to exceed the greater of (1) the earnings on the fund for the immediately preceding year, or (2) one-twelfth of the principal and interest payments on the Tax-Exempt Notes for the immediately preceding year.

“**Bond Compliance Officer**” means the City’s Director of Finance, or the person to whom the responsibilities of this position are delegated in writing.

“**Bond Counsel**” means Gilmore & Bell, P.C., or other firm of nationally recognized bond counsel selected by the City.

“**City**” means the City of St. Charles, Missouri, and its successors and assigns, or any body, agency or instrumentality of the State of Missouri succeeding to or charged with the powers, duties and functions of the City.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Final Written Allocation**” means the written allocation of expenditures of proceeds of the Tax-Exempt Notes, as summarized on **Exhibit C**.

“**Financed Facility**” means that portion of the Project financed or refinanced with the proceeds of the Tax-Exempt Notes.

“**Fountain Lakes**” means Fountain Lakes Land Holding, LLC, and its successors and assigns.

“Gross Proceeds” means (a) sale proceeds (any amounts actually or constructively received by the City from the sale of the Tax-Exempt Notes, including amounts used to pay underwriting discount or fees, but excluding pre-issuance accrued interest), (b) Investment proceeds (any amounts received from investing sale proceeds, or other Investment proceeds), (c) any amounts held in a sinking fund for the Tax-Exempt Notes, (d) any amounts held in a pledged fund or reserve fund for the Tax-Exempt Notes, (e) any other replacement proceeds and (f) any transferred proceeds. Specifically, Gross Proceeds includes (but is not limited to) amounts held in the following funds and accounts:

- Series A Account of the Debt Service Fund

“Guaranteed Investment Contract” is any Investment with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, including any agreement to supply Investments on two or more future dates (*e.g.*, a forward supply contract).

“Indenture” means the Trust Indenture dated as of December 1, 1997, as amended by the First Supplemental Amendment to Series 1997 Indenture dated as of May 1, 2001, the Second Supplemental Amendment to Series 1997 Indenture dated as of January 1, 2005 and the Third Supplemental Amendment to Series 1997 Indenture dated as of March __, 2014, as further amended and supplemented in accordance with the provisions thereof.

“Investment” means any security, obligation, annuity contract or other investment-type property that is purchased directly with, or otherwise allocated to, Gross Proceeds. This term does not include a tax-exempt bond, except for “specified private activity bonds” as defined in Code § 57(a)(5)(C), but it does include the investment element of most interest rate caps.

“IRS” means the United States Internal Revenue Service.

“Minor Portion” means the lesser of \$100,000 or 5% of the sale proceeds of the Tax-Exempt Notes.

“Net Proceeds” means the sale proceeds of the Tax-Exempt Notes (excluding pre-issuance accrued interest), less any proceeds deposited in a reasonably required reserve or replacement fund, plus all Investment earnings on such sale proceeds.

“Non-Qualified Use” means use of Tax-Exempt Note proceeds or the Financed Facility in a trade or business carried on by any Non-Qualified User. The rules set out in Regulations § 1.141-3 determine whether Tax-Exempt Note proceeds or the Financed Facility are “used” in a trade or business. Generally, ownership, a lease, or any other use that grants a Non-Qualified User a special legal right or entitlement with respect to the Financed Facility, will constitute use under Regulations § 1.141-3.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Opinion of Bond Counsel” means the written opinion of Bond Counsel to the effect that the action or proposed action or the failure to act or proposed failure to act for which the opinion is required will not adversely affect the exclusion of the interest on the Tax-Exempt Notes from gross income for federal income tax purposes.

“Payments in Lieu of Taxes” has the meaning assigned in the Indenture.

“Post-Issuance Tax Requirements” means those requirements related to the use of proceeds of the Tax-Exempt Notes and the Financed Facility and the investment of Gross Proceeds that apply after the Reissuance Date of the Tax-Exempt Notes.

“Project” means improvements to property as part of the redevelopment project undertaken pursuant to the Redevelopment Plan (as defined in the Indenture), as described on **Exhibit C**.

“Proposed Regulations” means the proposed arbitrage regulations REG 106143-07 (published at 72 Fed. Reg. 54606 (Sept. 26, 2007)).

“Qualified User” means a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it does not include the United States or any agency or instrumentality of the United States.

“Regulations” means all Regulations issued by the U.S. Treasury Department to implement the provisions of Code §§ 103 and 141 through 150 and applicable to the Tax-Exempt Notes.

“Reissuance Date” means March __, 2014.

“School District” means the Orchard Farm School District, and its successors and assigns.

“School District Agreement” means the School District Payment Agreement dated as of _____, 2014, between Fountain Lakes and the Orchard Farm School District.

“Series 1997 Notes” means the City’s Tax Increment Revenue Notes, Series 1997 (M.B. Properties, L.L.C. Project).

“Series 2005 Notes” means, collectively, the City’s Priority Tax Increment Revenue Notes, Series 2005A (M.B. Properties, L.L.C. Project), Priority Tax Increment Revenue Notes, Series 2005B (M.B. Properties, L.L.C. Project) and Subordinate Tax Increment Revenue Notes, Series 2005 (M.B. Properties, L.L.C. Project).

“Subordinate TIF Notes” means, collectively, the Tax-Exempt Notes and the Taxable Notes.

“Tax-Exempt Bond File” means documents and records for the Tax-Exempt Notes, the Series 2005 Notes and the Series 1997 Notes, maintained by the Bond Compliance Officer pursuant to the Tax Compliance Procedure.

“Tax-Exempt Notes” means the City’s Tax-Exempt Tax Increment Revenue Notes (M.B. Properties, L.L.C. Project) Series 2005, as reissued on the Reissuance Date on a tax-exempt basis.

“Tax Certificate” means this Federal Tax Certificate as it may from time to time be amended and supplemented in accordance with its terms.

“Tax Compliance Procedure” means the Tax-Advantaged Financing Compliance Policy and Procedure, adopted by the City on February 16, 2012, as amended and supplemented in accordance with the provisions thereof.

“Tax Revenues” means (a) the Economic Activity Tax Revenues (as defined in the Indenture), and (b) the Payments in Lieu of Taxes (less the amount of such Payments in Lieu of Taxes equal to the payments made by Fountain Lakes to the School District pursuant to the School District Agreement).

“Taxable Notes” means the City’s Taxable Tax Increment Revenue Notes (M.B. Properties, L.L.C. Project) Series 2005, as reissued on the Reissuance Date on a taxable basis.

“Transcript” means the Transcript of Proceedings relating to the authorization and issuance of the Tax-Exempt Notes.

“Trustee” means The Bank of New York Mellon Trust Company, N.A. (as successor to BNY Trust Company of Missouri, successor trustee to Magna Bank, N.A.), and its successors and assigns.

“Yield” means yield on the Tax-Exempt Notes, computed under Regulations § 1.148-4, and yield on an Investment, computed under Regulations § 1.148-5.

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of the City. The City represents and covenants as follows:

(a) *Organization and Authority.* The City (1) is an incorporated political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri, (2) has lawful power and authority to issue the Tax-Exempt Notes for the purposes set forth in the Indenture, to enter into, execute and deliver the Indenture, the Tax-Exempt Notes and this Tax Certificate, and to carry out its obligations under the Indenture and this Tax Certificate, and (3) by all necessary action has been duly authorized to execute and deliver the Indenture, the Tax-Exempt Notes and this Tax Certificate, acting by and through its duly authorized officials.

(b) *Tax-Exempt Status—General Representation and Covenants.* In order to maintain the exclusion of the interest on the Tax-Exempt Notes from gross income for federal income tax purposes, the City (to the full extent within its power or discretion): (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code; and (2) will not use or invest, or permit the use or Investment of, any Tax-Exempt Note proceeds, other money held under the Indenture, or other funds of the City, in a manner that would violate applicable provisions of the Code.

(c) *Governmental Obligations; Private Security or Payment; No Impermissible Agreements.*

(1) In General. As of the Reissuance Date, the City expects that none of the principal of and interest on the Tax-Exempt Notes will be (under the terms of the Tax-Exempt Notes or any underlying arrangement), directly or indirectly:

(A) secured by (i) any interest in property used or to be used for a Non-Qualified Use, or (ii) any interest in payments in respect of such property; or

(B) derived from payments (whether or not such payments are made to the City) in respect of property, or borrowed money, used or to be used for a Non-Qualified Use.

(2) Tax Revenues. For purposes of the foregoing, taxes of general application, including Tax Revenues, are not treated as private payments or as private security.

(A) Tax-Exempt Notes; Tax Revenues. Tax Revenues will be the primary source of repayment of the Tax-Exempt Notes. Tax Revenues are generally applicable taxes because they are enforced contributions exacted pursuant to legislative authority as part of the taxing power, are imposed and collected for the purpose of raising revenue to be used for governmental purposes, have a uniform rate of collection that apply to all persons of the same classification in the appropriate jurisdiction and have a generally applicable manner of collection and determination.

(B) Taxable Notes; School District Payments. Fountain Lakes and the School District have entered into the School District Agreement, which provides, among other things, that Fountain Lakes will make periodic payments to the School District representing the amount of Payments in Lieu of Taxes foregone by the School District on and after the Reissuance Date as a result of the reissuance of the Subordinate TIF Notes. Such Payments in Lieu of Taxes will be the primary source of repayment of the Taxable Notes, and no such Payments in Lieu of Taxes are expected to be used, or otherwise available, to repay the Tax-Exempt Notes.

(3) No Impermissible Agreements. No taxpayer has entered into any “impermissible agreement” relating to the payment of Tax Revenues. An “impermissible agreement” generally includes any agreement described in Regulation § 1.141-4(e)(4)(ii), including the following:

(A) An agreement to be personally liable for a tax that does not impose personal liability.

(B) An agreement to provide additional credit support such as a guaranty or to pay unanticipated shortfalls in tax collections.

(C) An agreement as to the minimum market value of property subject to a property tax.

(D) An agreement not to challenge or to seek deferral of a tax.

(E) Any similar agreement that causes a tax to fail to have a generally applicable manner of determination or collection.

(4) Covenant. The City will not permit any private security or payment with respect to the Tax-Exempt Notes without first obtaining an Opinion of Bond Counsel.

(d) *No Private Loan*. Not more than 5% of the Net Proceeds of the Tax-Exempt Notes will be loaned directly or indirectly to any Non-Qualified User.

(e) *IRS Form 8038-G*. Bond Counsel has prepared Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) based on the expectations, representations and covenants of the City contained in this Tax Certificate or otherwise provided by the City. Bond Counsel will sign the

return as a paid preparer following completion and will then deliver copies to the City for execution and for the City's records. The City agrees to timely execute and return to Bond Counsel the execution copy of Form 8038-G for filing with the IRS. A copy of the Form 8038-G filed with the IRS, along with proof of filing, will be included as **Exhibit B**.

(f) *Limit on Maturity of Tax-Exempt Notes.* The Tax-Exempt Note proceeds will be used to refinance certain improvements and property as part of the redevelopment project undertaken pursuant to the Redevelopment Plan (as defined in the Indenture). The "average maturity" of the Tax-Exempt Notes of _____ years, as computed by Bond Counsel, is not expected to exceed 120% of the average reasonably expected economic life of the Financed Facility.

(g) *Reimbursement of Expenditures.* No Tax-Exempt Note proceeds will be used to reimburse the City for Project expenditures paid prior to the Reissuance Date.

(h) *Registered Notes.* The Indenture requires that all of the Tax-Exempt Notes will be issued and held in registered form within the meaning of Code § 149(a).

(i) *No Federal Guarantee.* The City will not take any action or permit any action to be taken (to the full extent within its power or discretion) which would cause any Tax-Exempt Note to be "federally guaranteed" within the meaning of Code § 149(b).

(j) *Hedge Bonds.* At least 85% of the net sale proceeds of the Series 1997 Notes and Series 2005 Notes were used to carry out the governmental purpose of the Tax-Exempt Notes within three years after the respective issue date thereof, and not more than 50% of the proceeds of the of the Series 1997 Notes and Series 2005 Notes were invested in Investments having a substantially guaranteed Yield for four years or more.

(k) *Bank Qualified Tax-Exempt Obligation.* The Tax-Exempt Notes are *not* "qualified tax-exempt obligations" under Code § 265(b)(3).

(l) *Interest Rate Swap.* As of the Reissuance Date, the City has not entered into an interest rate swap agreement or any other similar arrangement designed to modify its interest rate risk with respect to the Tax-Exempt Notes. The City will not enter into any such arrangement in the future without obtaining an Opinion of Bond Counsel.

(m) *Guaranteed Investment Contract.* As of the Reissuance Date, the City does not expect to enter into a Guaranteed Investment Contract for any Gross Proceeds of the Tax-Exempt Notes. The City will be responsible for complying with Section 4.4(d) if it decides to enter into a Guaranteed Investment Contract at a later date.

(n) *Single Issue; No Other Issues.* The Tax-Exempt Notes constitute a single "issue" under Regulations § 1.150-1(c). Except for the Taxable Notes, which are taxable obligations and therefore not part of the same "issue" as the Tax-Exempt Notes under Regulations § 1.150-1(c), no other debt obligations of the City: (1) are being sold within 15 days of the Reissuance Date, (2) are being sold under the same plan of financing as the Tax-Exempt Notes, and (3) are expected to be paid from substantially the same source of funds as the Tax-Exempt Notes (disregarding guarantees from unrelated parties, such as bond insurance).

(o) *Compliance with Future Tax Requirements.* The City understands that the Code and the Regulations may impose new or different restrictions and requirements on the City in the future. The City

will comply with such future restrictions that are necessary to maintain the exclusion of the interest on the Tax-Exempt Notes from gross income for federal income tax purposes.

Section 2.2. Survival of Representations and Covenants. All representations, covenants and certifications of the City contained in this Tax Certificate or in any certificate or other instrument delivered by the City under this Tax Certificate, will survive the execution and delivery of such documents and the issuance of the Tax-Exempt Notes, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations. The foregoing covenants of this Section will remain in full force and effect notwithstanding the defeasance of the Tax-Exempt Notes.

ARTICLE III

ARBITRAGE CERTIFICATIONS AND COVENANTS

Section 3.1. General. The purpose of this Article III is to certify, under Regulations § 1.148-2(b), the City's expectations as to the sources, uses and investment of Tax-Exempt Note proceeds and other money, in order to support the City's conclusion that the Tax-Exempt Notes are not arbitrage bonds. The person executing this Tax Certificate on behalf of the City is an authorized officer of the City responsible for authorizing and issuing the Tax-Exempt Notes.

Section 3.2. Reasonable Expectations. The facts, estimates and expectations set forth in this Article III are based upon and in reliance upon the City's understandings of the documents and certificates that comprise the Transcript, and the representations, covenants and certifications of the parties contained therein. To the City's knowledge, the facts and estimates set forth in this Tax Certificate are accurate, and the expectations of the City set forth in this Tax Certificate are reasonable. The City does not have any knowledge that would cause it to believe that the representations, warranties and certifications described in this Tax Certificate are unreasonable or inaccurate or may not be relied upon.

Section 3.3. Purpose of Financing. The Tax-Exempt Notes are being issued as part of a reissuance of the outstanding Series 2005 Notes in order to provide an orderly plan of finance.

Section 3.4. Funds and Accounts. The following funds and accounts have been established with respect to the Tax-Exempt Notes:

- (a) Revenue Fund.
- (b) Debt Service Fund.

Section 3.5. Amount and Use of Tax-Exempt Note Proceeds and Other Moneys. On the Reissuance Date, Fountain Lakes (as the current owner of the outstanding Series 2005 Notes) will surrender the outstanding Series 2005 Notes in exchange for \$[Principal Amount] principal amount of Tax-Exempt Notes and \$_____ principal amount of Taxable Notes. There will be no cash proceeds received by the City as a result of, or in connection with, the reissuance of the Tax-Exempt Notes and Taxable Notes.

Section 3.6. Multipurpose Issue. The City is applying the arbitrage rules to separate financing purposes of the Tax-Exempt Notes that have the same initial temporary period as if they constitute a single issue, pursuant to Regulations § 1.148-9(h)(3)(i).

Section 3.7. No Advance Refunding. No Tax-Exempt Note proceeds will be used more than 90 days following the Reissuance Date to pay principal of or interest on any other debt obligation.

Section 3.8. Current Refunding.

(a) *Proceeds Used for Current Refunding.* The proceeds of the Tax-Exempt Notes will be deemed to discharge a portion of the outstanding Series 2005 Notes on the Reissuance Date.

(b) *No Transferred Proceeds.* There are no unspent proceeds (sale proceeds, Investment proceeds or transferred proceeds) of the Series 2005 Notes, and therefore no transferred proceeds of the Tax-Exempt Notes.

Section 3.9. Project Completion. Based on the representations of the developer of the Project, the City understands that the Project has previously been completed.

Section 3.10. Sinking Funds. The City is required to make periodic payments to the Trustee in amounts sufficient to pay the principal of and interest on the Tax-Exempt Notes, but only from available Tax Revenues. Such payments will be applied in accordance with the Indenture and ultimately deposited into the Series A Account of the Debt Service Fund. Except for the Series A Account of the Debt Service Fund, no sinking fund or other similar fund that is expected to be used to pay principal of or interest on the Tax-Exempt Notes has been established or is expected to be established. The Series A Account of the Debt Service Fund is used primarily to achieve a proper matching of revenues with principal and interest payments on the Tax-Exempt Notes within each year, and the City expects that the Series A Account of the Debt Service Fund will qualify as a Bona Fide Debt Service Fund.

Section 3.11. Reserve, Replacement and Pledged Funds.

(a) *Debt Service Reserve Fund.* No reserve or replacement fund has been or is expected to be established for the Tax-Exempt Notes.

(b) *No Other Replacement or Pledged Funds.* None of the Tax-Exempt Note proceeds will be used as a substitute for other funds that were intended or earmarked to pay costs of the Financed Facility, and that instead has been or will be used to acquire higher Yielding Investments. Except for the Series A Account of the Debt Service Fund, there are no other funds pledged or committed in a manner that provides a reasonable assurance that such funds would be available for payment of the principal of or interest on the Tax-Exempt Notes if the City were to encounter financial difficulty.

(c) *Other Funds and Accounts.* The Revenue Fund is expected to be used for the temporary deposit of Tax Revenues and other amounts until transferred to other funds and accounts in accordance with the Indenture, and therefore, amounts held therein are not pledged or committed in a manner that provides a reasonable assurance that such funds would be available for payment of the principal of or interest on the Tax-Exempt Notes if the City was to encounter financial difficulty.

Section 3.12. No Purpose Investment. The proceeds of the Tax-Exempt Notes will not be used to purchase an Investment for the purpose of carrying out the governmental purpose of the financing.

Section 3.13. Purchase Price and Yield on Tax-Exempt Notes.

(a) *Purchase Prices.* The Tax-Exempt TIF Notes are being reissued in exchange for the surrender and cancellation of an equal principal amount of Series 2005 Notes. The initial purchase price of the Tax-Exempt Notes is deemed to be \$ _____, equal to the principal amount thereof.

(b) *Note Yield.* Based on the deemed purchase price of the Tax-Exempt Notes, the Yield on the Tax-Exempt Notes is _____%, as computed by Bond Counsel as shown on **Exhibit A**.

Section 3.14. Miscellaneous Arbitrage Matters.

(a) *No Abusive Arbitrage Device.* The Tax-Exempt Notes are not and will not be part of a transaction or series of transactions that has the effect of (1) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (2) overburdening the tax-exempt bond market.

(b) *No Over-Issuance.* The sale proceeds of the Tax-Exempt Notes, together with expected Investment earnings thereon and other money contributed by the City, do not exceed the cost of the governmental purpose of the Tax-Exempt Notes as described above.

Section 3.15. Conclusion. On the basis of the facts, estimates and circumstances set forth in this Tax Certificate, the City does not expect that the Tax-Exempt Note proceeds will be used in a manner that would cause any Tax-Exempt Note to be an “arbitrage bond” within the meaning of Code § 148 and the Regulations.

ARTICLE IV

POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES

Section 4.1. General.

(a) *Purpose of Article.* The purpose of this Article is to supplement the Tax Compliance Procedure and the Tax Compliance Procedure and to set out specific policies and procedures governing compliance with the federal income tax requirements that apply after the Tax-Exempt Notes are issued. The City recognizes that interest on the Tax-Exempt Notes will remain excludable from gross income only if Post-Issuance Tax Requirements are followed after the Reissuance Date. The City further acknowledges that written evidence substantiating compliance with Post-Issuance Tax Requirements must be retained in order to substantiate the position that interest on the Tax-Exempt Notes is exempt from gross income in the event of an audit of the Tax-Exempt Notes by the IRS.

(b) *Written Policies and Procedures.* The City intends for the Tax Compliance Procedure, as supplemented by this Tax Certificate, to be the primary written policies and procedures for monitoring compliance with the Post-Issuance Tax Requirements for the Tax-Exempt Notes and to supplement any other formal policies and procedures related to tax compliance that the City has established. The provisions of this Tax Certificate are intended to be consistent with the Tax Compliance Procedure. In the event of any inconsistency between the Tax Compliance Procedure and this Tax Certificate, the terms of this Tax Certificate will govern.

(c) *Bond Compliance Officer.* The Bond Compliance Officer will be responsible for working with other City officials and administrators and for consulting with Bond Counsel, other legal counsel and outside experts to the extent necessary to comply with the Post-Issuance Tax Requirements.

Section 4.2. Record Keeping; Use of Tax-Exempt Note Proceeds.

(a) *Record Keeping.* The Bond Compliance Officer will maintain the Tax-Exempt Bond File for the Tax-Exempt Notes in accordance with the Tax Compliance Procedure. Unless otherwise specifically instructed in an Opinion of Bond Counsel or to the extent otherwise provided in this Tax Certificate, the Bond Compliance Officer shall retain records related to Post-Issuance Tax Requirements until 3 years following the final maturity of the Tax-Exempt Notes or any obligation issued to refund the Tax-Exempt Notes. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (1) ensure an accurate and complete transfer of the hardcopy records which indexes, stores, preserves, retrieves and reproduces the electronic records, (2) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (3) exhibit a high degree of legibility and readability both electronically and in hardcopy, (4) provide support for other books and records of the City and (5) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the City's premises.

(b) *Accounting and Allocation of Proceeds to Expenditures.* The allocation of proceeds of the Series 1997 Notes and Series 2005 Notes, and other money contributed by the developer of the Project, is summarized on **Exhibit C**.

(c) *Annual Compliance Checklist.* Attached as **Exhibit D** is a form of annual compliance checklist for the Tax-Exempt Notes. The Bond Compliance Officer will prepare and complete an annual compliance checklist for the Financed Facility annually in accordance with the Tax Compliance Procedure. In the event the annual compliance checklist identifies a deficiency in compliance with the requirements of this Tax Certificate, the Bond Compliance Officer will take the actions identified in an Opinion of Bond Counsel or the Tax Compliance Procedure to correct any deficiency.

(d) *Opinions of Bond Counsel.* The Bond Compliance Officer is responsible for obtaining any Opinion of Bond Counsel required under the provisions of this Tax Certificate or the Tax Compliance Procedure.

Section 4.3. Temporary Periods/Yield Restriction. Except as described below, the City will not invest Gross Proceeds at a Yield greater than the Yield on the Tax-Exempt Notes:

(a) *Debt Service Fund.* To the extent that the Series A Account of the Debt Service Fund qualifies as a Bona Fide Debt Service Fund, money in such fund may be invested without Yield restriction for 13 months after the date of deposit. Earnings on such amounts may be invested without Yield restriction for one year after the date of receipt of such earnings.

(b) *Minor Portion.* In addition to the amounts described above, Gross Proceeds not exceeding the Minor Portion may be invested without Yield restriction.

Section 4.4. Fair Market Value.

(a) *General.* No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of

for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's-length transaction. Fair market value will be determined in accordance with Regulations § 1.148-5.

(b) *Established Securities Market.* Except for Investments purchased for a Yield-restricted defeasance escrow, if an Investment is purchased or sold in an arm's-length transaction on an established securities market (within the meaning of Code § 1273), the purchase or sale price constitutes the fair market value. Where there is no established securities market for an Investment, market value must be established using one of the paragraphs below. The fair market value of Investments purchased for a Yield-restricted defeasance escrow must be determined in a bona fide solicitation for bids that complies with Regulations § 1.148-5.

(c) *Certificates of Deposit.* The purchase price of a certificate of deposit (a "CD") is treated as its fair market value on the purchase date if (1) the CD has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal, (2) the Yield on the CD is not less than the Yield on reasonably comparable direct obligations of the United States, and (3) the Yield is not less than the highest Yield published or posted by the CD issuer to be currently available on reasonably comparable CDs offered to the public.

(d) *Guaranteed Investment Contracts.* The City will not enter into a Guaranteed Investment Contract for any Gross Proceeds of the Tax-Exempt Notes without first obtaining and delivering to the Trustee an Opinion of Bond Counsel.

(e) *Other Investments.* If an Investment is not described above, the fair market value may be established through a competitive bidding process, as follows:

(1) at least three bids on the Investment must be received from persons with no financial interest in the Tax-Exempt Notes (e.g., as underwriters or brokers); and

(2) the Yield on the Investment must be equal to or greater than the Yield offered under the highest bid.

Section 4.5. Arbitrage Requirement. As of the Reissuance Date, the City does not expect that there will be any Gross Proceeds of the Tax-Exempt Notes, other than amounts in the Series A Account of the Debt Service Fund (which is expected to qualify as a Bona Fide Debt Service Fund in each year), and therefore the City does not expect that there will be any Gross Proceeds subject to yield restriction or rebate. Based on these expectations and certifications, Bond Counsel has advised the City that no rebate or yield restriction computations are expected to be required with respect to the Tax-Exempt Notes. However, if there are Gross Proceeds of the Notes subject to yield restriction or rebate with respect to the Notes, the City is obligated to engage Bond Counsel or an independent certified public accountant to compute arbitrage rebate and yield reduction amounts on the Notes and to pay arbitrage rebate or yield reduction payments to the United States at least once every five years, and within 60 days after the discharge of the Lease, in accordance with Code § 148(f). Notwithstanding anything in the Indenture to the contrary, the obligation to pay arbitrage rebate to the United States will survive the payment or defeasance of the Tax-Exempt Notes.

Section 4.7. Filing Requirements. The City will file or cause to be filed with the IRS such reports or other documents as are required by the Code in accordance with an Opinion of Bond Counsel.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1. Term of Tax Certificate. This Tax Certificate will be effective concurrently with the issuance and delivery of the Tax-Exempt Notes and will continue in force and effect until the principal of, redemption premium, if any, and interest on all Tax-Exempt Notes have been fully paid and all such Tax-Exempt Notes are cancelled; provided that, the provisions of Section 4.6 regarding payment of arbitrage rebate and all related penalties and interest will remain in effect until all such amounts are paid to the United States and the provisions of Section 4.2 relating to recordkeeping responsibilities will remain in force for the period described therein for records to be retained.

Section 5.2. Amendments. This Tax Certificate may be amended from time to time by the City, without notice to or the consent of any of the owners of the Tax-Exempt Notes, but only if such amendment is in writing and is accompanied by an Opinion of Bond Counsel to the effect that, under then-existing law, assuming compliance with this Tax Certificate as so amended such amendment will not cause interest on any Tax-Exempt Note to be included in gross income for federal income tax purposes. No such amendment will become effective until the City and the Trustee receive this Opinion of Bond Counsel.

Section 5.3. Opinion of Bond Counsel. The City may deviate from the provisions of this Tax Certificate if furnished with an Opinion of Bond Counsel, addressed to the City and the Trustee, to the effect that the proposed deviation will not adversely affect the exclusion of interest on the Tax-Exempt Notes from gross income for federal income tax purposes. The City will comply with any further or different instructions provided in an Opinion of Bond Counsel to the effect that the further or different instructions need to be complied with in order to maintain the validity of the Tax-Exempt Notes or the exclusion from gross income of interest on the Tax-Exempt Notes.

Section 5.4. Reliance. In delivering this Tax Certificate, the City is making only those certifications, representations and agreements as are specifically attributed to it in this Tax Certificate. The City is not aware of any facts or circumstances which would cause it to question the accuracy of the facts, circumstances, estimates or expectations of any other party providing certifications as part of this Tax Certificate and, to the best of its knowledge, those facts, circumstances, estimates and expectations are reasonable. The parties to this Tax Certificate understand that their certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Tax-Exempt Notes and the exclusion from federal gross income of the interest on the Tax-Exempt Notes.

Section 5.5. Severability. If any provision in this Tax Certificate or in the Tax-Exempt Notes is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

Section 5.6. Benefit of Agreement. This Tax Certificate is binding upon the City and its successors and assigns, and inures to the benefit of the parties to this Tax Certificate and the owners of the Tax-Exempt Notes. Nothing in this Tax Certificate or in the Indenture or the Tax-Exempt Notes, express or implied, gives to any person, other than the parties to this Tax Certificate and their successors and assigns, and the owners of the Tax-Exempt Notes, any benefit or any legal or equitable right, remedy or claim under this Tax Certificate.

Section 5.7. Default; Breach and Enforcement. Any misrepresentation of a party contained herein or any breach of a covenant or agreement contained in this Tax Certificate may be pursued by the owners of the Tax-Exempt Notes or the other party or parties to this Tax Certificate pursuant to the terms of the Indenture or any other document which references this Tax Certificate and gives remedies for a misrepresentation or breach thereof.

Section 5.8. Execution in Counterparts. This Tax Certificate may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute the same instrument.

Section 5.9. Governing Law. This Tax Certificate will be governed by and construed in accordance with the laws of the State of Missouri.

Section 5.10. Electronic Transactions. The parties agree that the transaction described in this Tax Certificate may be conducted, and related documents may be stored, by electronic means.

The City has caused this Federal Tax Certificate to be duly executed by a duly authorized officer as of the Reissuance Date of the Tax-Exempt Notes.

CITY OF ST. CHARLES, MISSOURI

By: _____
Title: Mayor

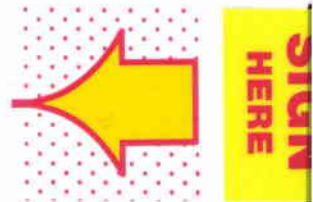


EXHIBIT A

DEBT SERVICE SCHEDULE AND PROOF OF YIELD

EXHIBIT B

IRS FORM 8038-G

EXHIBIT C

DESCRIPTION OF FINANCED FACILITY

EXHIBIT D**FORM OF ANNUAL COMPLIANCE CHECKLIST**

Name of tax-exempt obligations (the "Tax-Exempt Notes") financing the Financed Facility:	\$[Principal Amount] City of St. Charles, Missouri Subordinate Tax-Exempt Tax Increment Revenue Notes (Tax-Exempt) (M.B. Properties, L.L.C. Project) Series 2005
Reissuance Date of Tax-Exempt Notes:	March __, 2014
Name of Bond Compliance Officer:	
Period covered by request ("Annual Period"):	

Item	Question	Response
1. Rebate Calculations	Has any sinking fund or reserve fund been established to secure the Tax-Exempt Notes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy in the Tax-Exempt Bond File, if No; consult with the Rebate Analyst and include all correspondence in the Tax-Exempt Bond File.	
2. Private Security or Payment	Has the City entered into any agreement or arrangement with any entity whereby the entity pays for the use of any portion of the Financed Facility or agrees to provide security for the Tax-Exempt Notes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Has the City entered into, or permitted another entity to enter into, any special agreement or arrangement with any entity relating to the payment of the taxes securing the Tax-Exempt Notes (<i>i.e.</i> , economic activity taxes and payments in lieu of taxes), other than agreement between Fountain Lakes and the School District to reimburse the School District for PILOTs foregone?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes to either, consult with Bond Counsel and include correspondence – including any Written Opinion of Bond Counsel – in the Tax-Exempt Bond File.	

Signature, Name and Title of Person Completing Questionnaire:**Printed Name:****Title:****Date Completed:**

RCA FORM (OFFICE USE ONLY)

Bill# 1126 ⁴

MEETING/DATE: 3/11/2014

Regular() Special(X) Work Session()

ATTACHMENT: YES(X) NO()

Report() Resolution() Ordinance(X)

Request for Council Action

Sponsor: Ron Stivison

Description: Contract Amendment #3 with Charter Communications for connectivity to Fire Station #4 located at 3021 Boschertown Road for 36 months in an amount not to exceed \$87,012.00 for a total contract amount not to exceed \$678,053.40

- **Contract Extension/Renewal:** Yes() No(X)
- **Information Paper Attached:** Yes() No(X)

Board/Committee/Commission: Approve() Disapprove()

Summary:

The City of Saint Charles is amending the contract with Charter Communications to extend a connection to the newly constructed Fire Station #4 to provide necessary connectivity for landline phone service and computer networking.

STAFF RECOMMENDATION:

Approval

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

2014: **Account:** 410-110-111-733-099 **Amount:** \$16,919.00

RCA prepared by: MAS Dept. Director M. Seeds Fin. Director KW Director of Admin M. Stivison

Bill No. 11264

Ordinance No. _____

Sponsor: Ron Stivison

An Ordinance Authorizing Contract Amendment Number 3 with Charter Fiberlink-Missouri, LLC (Charter Business) for the Wide Area Network Upgrade Project to Extend a Connection to Fire Station Number 4 in an Amount of \$87,012.00, for a Total Contract Amount Not to Exceed \$678,053.40.

Be It Ordained by the Council of the City of St. Charles, Missouri, as Follows:

SECTION 1. The Mayor and City Clerk are hereby authorized and directed to execute Contract Amendment Number 3 with Charter Fiberlink-Missouri, LLC (Charter Business) for the Wide Area Network Upgrade Project to extend a connection to Fire Station Number 4 in an amount of \$87,012.00, for a total contract amount not to exceed \$678,053.40.

SECTION 2. Contract Amendment Number 3 shall be substantially the same in form and content as attached hereto and identified as Exhibit 1.

SECTION 3. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Date Passed

Date Approved by Mayor

Dave Beckering, Presiding Officer

Sally A. Faith, Mayor

Attest:

City Clerk

Approved as to Form:

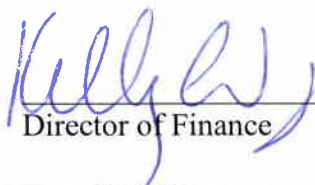


Michael J. Valenti, City Attorney Date


Bill No. 11264

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.



Director of Finance



Date

T:\ORDINANC\CONTRACTS\Charter Business Amendment Number 3 (March 2014).doc

AMENDMENT #3 TO CONTRACT C11-326

This Third Amendment to Contract C11-326 is made and entered into this _____ day of _____, 2014 by and between the City of St. Charles, Missouri hereinafter, the "City" and Charter Fiberlink-Missouri, LLC (Charter Business), hereinafter, "Supplier".

WHEREAS, The City and Supplier are parties to Contract C11-326, pursuant to which the City agreed to pay Supplier a Contract Sum not to exceed Five Hundred Sixty-Four Thousand Forty-One Dollars and Forty Cents (\$564,041.40) for bandwidth upgrades and service for sixty months; and

WHEREAS, The City and Supplier entered into Contract Amendment Number 1 in October 2011 pursuant to which City agreed to pay Supplier an additional sum of \$27,000.00 which amended the total contract sum to not to exceed \$591,041.40; and

WHEREAS, The City and Supplier entered into Contract Amendment Number 2 in August of 2013 pursuant to which the parties agreed to add service from the Criminal Justice Center to the MOREnet Data Center and to cancel WAN services at City Hall, alterations which did not change the total contract sum of not to exceed \$591,041.40; and

WHEREAS, A Third Contract Amendment is needed to allow for the provision of additional bandwidth services from Supplier to City.

NOW, THEREFORE, Contract C11-326 is amended and the parties hereby agree as follows:

1. This Third Amendment shall allow for bandwidth services for 36 months at the City's new Fire Station Number 4 being constructed at 3021 Boschertown Road, St. Charles, MO, in an amount not to exceed Eighty-Seven Thousand Twelve Dollars (\$87,012.00), in accordance with Supplier's proposal copies of which are attached hereto as Exhibit A. This amends the total contract sum to not to exceed Six Hundred Seventy-Eight Thousand Fifty-Three Dollars and Forty Cents (\$678,053.40).
2. All other provisions of Contract C11-326 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed the day and year first above written.

CHARTER FIBERLINK-MISSOURI, LLC
(CHARTER BUSINESS)

CITY OF ST. CHARLES, MISSOURI:

By: _____ Date _____

By: Sally A. Faith, Mayor

Date _____

Attest:

Attest:

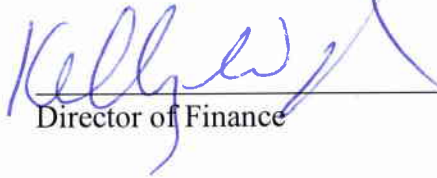
By: _____ Date _____

By: City Clerk

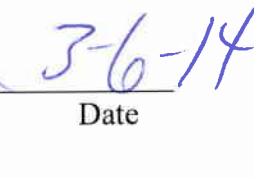
Date _____

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.



Director of Finance



Date



201308232876622

SERVICE ORDER

Under the Data Transport Service Agreement

This Service Order is executed on Feb 27, 2014 and modifies the Service Agreement dated Aug 04, 2011 by and between Charter Fiberlink-Missouri, LLC, ("Charter Business" or "Charter") with local offices at 12405 Powerscourt Drive, St. Louis MO 63131 and City of St. Charles, Missouri - Firehouse-Boschert Town, ("Customer") with offices located at 3201 Boschertown Rd., St. Charles, MO 63301. Except as specifically modified herein, all other terms and conditions of the Agreement and Standard Terms of Service shall remain unamended and in full force and effect.

CUSTOMER INFORMATION:

Account Name: City of St. Charles, Missouri - Firehouse-Boschert Town

Invoicing Address: 200 N. 2nd St., ST. CHARLES, MO 63301

Invoicing Special Instructions: N/A

1. SITE-SPECIFIC INFORMATION:

☐ New ☐ Renew ☒ Change: Order Type: New: Additional Site

Proposed Installation Date: TBD

Service Location (Address): 3201 Boschertown Rd., St. Charles, MO 63301

Service Location Name (for purposes of identification): _____

Service Location Special Instructions: _____

☒ Non-Hospitality or Non-Video

Customer Contact Information. To facilitate communication the following information is provided as a convenience and may be updated at any time without affecting the enforceability of the terms and conditions herein:

	Billing Contact	Site Contact	Technical Contact
Name			
Phone			
Fax			
Cell			
Email Address			

MONTHLY SERVICE FEES:**Data Services:**

Charter Business Bundle: No Bundle *

Base Service

MEF Service Types (if applicable): _____

\$2,417.00

Speed: 1 Gbps WAN (Down/Up)

CPE: _____

* If Customer has selected the Charter Business Special Offers, the Section 3(i) of the Standard Terms of Service (for Charter Business Bundle) shall apply.

ONE-TIME CHARGES:**ONE-TIME CHARGES \$0.00****2. TOTAL FEES.**

Total Monthly Service Fees of \$2,417.00 are due upon receipt of the monthly invoice.

3. **SERVICE PERIOD.** The initial Service Period of this Service Order shall begin on the date installation is completed and shall continue for a period of 36 months. Upon expiration of the initial term, this Service Order shall automatically renew for successive one-month terms and Charter may then apply Charter's then-current Monthly Service Fees unless either party terminates this Service Order by giving thirty (30) days prior written notice to the other party before the expiration of the current term.
4. **NO UNTRUE STATEMENTS.** Customer further represents and warrants to Charter that neither this Service Order, nor any other information, including without limitation, any schedules or drawings furnished to Charter contains any untrue or incorrect statement of material fact or omits or fails to state a material fact.
5. **CONFIDENTIALITY.** Customer hereby agrees to keep confidential and not to disclose directly or indirectly to any third party, the terms of this Service Order or any other related Service Orders, except as may be required by law. If any unauthorized disclosure is made by Customer and/or its agent or representative, Charter shall be entitled to, among other damages arising from such unauthorized disclosure, injunctive relief and a penalty payment in the amount of the total One-Time Charges associated with this Service Order, and Charter shall have the option of terminating this Service Order, other related Service Orders and/or the Service Agreement.
6. **ENTIRE AGREEMENT.** The terms and conditions of the Service Agreement will remain in full force and effect, except as modified by this Service Order. This Service Order will serve to supplement the Service Agreement. In the event of any conflict between the provisions of this Service Order and the provisions of the Service Agreement excluding those set forth in Indemnification of the Standard Terms of Service, the provisions of this Service Order shall prevail. All terms not otherwise defined herein will have the same meaning ascribed to them in the Service Agreement. This Service Order supersedes and replaces any and all other Service Orders, either oral or written, regarding the specific Service Locations. This Service Order may not be amended except by a written agreement signed by both parties. The person signing on behalf of the Customer represents that he/she has full authority to bind Customer to the terms and conditions of this Service Order.

7. **FACSIMILE.** A copy sent via fax machine or scanned and e-mailed of a duly executed Agreement and Service Order signed by both authorized parties shall be considered evidence of a valid order, and Charter may rely on such copy of the Agreement and Service Order as if it were the original.

NOW THEREFORE, Charter and Customer agree to the terms and conditions included within this Service Order and hereby execute this Service Order by their duly authorized representatives.

Charter Fiberlink-Missouri, LLC

City of St. Charles, Missouri - Firehouse-Boschert Town

By:

By: Charter Communications, Inc., its Manager

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: SAWY A FAITH

Title: _____

Title: MAYOR

Date: _____

Date: _____

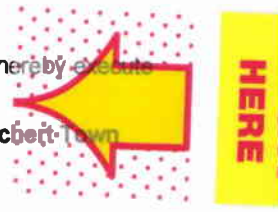
Charter Business Account Executive:

Name: Eric Wallut

Telephone: (314) 713-9036

Attest:

City Clerk





CUSTOMER CERTIFICATION OF INTRASTATE CIRCUITS

I am an officer or employee of Customer and knowledgeable concerning the jurisdictional nature of the communications traffic that is carried over circuits that Customer purchases from Charter Communications, Inc. and its affiliates (collectively, "Charter"). I attest on behalf of Customer that for each Data WAN/private line service that Customer purchases where the endpoint of such circuits are located within the same state ten percent (10%) or less of the communications traffic is interstate in nature.

If at any time this certification is no longer accurate, Customer shall complete and submit to Charter an updated Intrastate Circuit Certification and any other documentation reasonably required by Charter. Customer acknowledges that any Data WAN or private line services that it purchases from Charter that are not identified on a valid Intrastate Circuit Certification shall be subject to surcharges to recover federal Universal Service Fund ("fUSF") contribution associated with such services. If at any time the information provided in this Intrastate Circuit Certification is determined to be incorrect, or if it changes and Customer does not notify Charter as required, Customer will be responsible for paying any fUSF contributions and associated late payment charges and penalties imposed upon Charter relating to such services. Customer agrees to indemnify Charter and hold it harmless from and against any claim or action resulting from Charter's reliance on the information provided in this Intrastate Circuit Certification and agrees to cooperate in the defense of any action based on the information provided in this Intrastate Circuit Certification. I am authorized by Customer to make the representations, attestations and certifications contained herein.

Customer (full legal name of company): City of St. Charles, Missouri - Firehouse-Boschert Town
Address: 3201 Boschertown Rd. St. Charles MO 63301
Authorized Representative Signature:
Printed Name:
Title:
Date:
Contact Person (if different than above):
Contact Phone Number:

Please indicate the use of your Data WAN or private line service below. (Note: Locations not indicated will automatically be classified as interstate. Use additional sheets as necessary.)

Street Address of Network Location(s)	SELECT ONE	
	Intrastate The point to point circuit is physically located within a single state AND 10% or less of the traffic crosses state lines.	Interstate The point to point circuit physically crosses state lines OR more than 10% of the traffic crosses state lines
3201 Boschertown Rd. St. Charles MO 63301	X	



201308232876622



201308232876622

COMMERCIAL ACCOUNT RIGHT OF ENTRY AGREEMENT

This Right of Entry Agreement (the "Agreement") is made effective as of 02/27/2014, by and between CITY OF ST. CHARLES, MO ("Property Owner") with premises located at 3201 Boschertown Rd., St. Charles, MO 63301 ("Premises") and Charter Communications Entertainment I, LLC, ("Charter" or "Charter Business") with corporate offices located at 12405 Powerscourt Drive, St. Louis, MO 63131, Attn: CB Corporate Contracts Management (ROE).

THE PARTIES AGREE AS FOLLOWS:

- 1. CONSTRUCTION AUTHORIZATION.** Property Owner hereby authorizes Charter to install, maintain and operate the wiring, cables, conduits, equipment and/or facilities (collectively, "Equipment") on the Premises necessary for Charter to provide its communications services (the "Services"). Property Owner recognizes Charter's right to have exclusive control over any Charter installed Equipment. Property Owner has represented to Charter that Property Owner is the legal owner of the Premises, and that no other person has any rights in the Premises that conflict with Charter's rights under this Agreement. Property Owner will not attach to or use, and will not knowingly allow anyone else to attach to or use Charter's Equipment for any purpose without Charter's prior written consent, which Charter may withhold in its sole discretion. In the event the Property Owner is not signing this Agreement, then the person signing this Agreement on behalf of Property Owner represents that he/she is Property Owner's authorized agent and has full authority to bind Property Owner to the terms and conditions of this Agreement. If requested by Owner, Charter shall provide a proposed route for installation of Equipment.
- 2. RESPONSIBILITY TO CONTACT PUBLIC UTILITIES.** As may be required by law, Charter or its contractors will contact and coordinate with local agencies to physically mark the location of all public utility lines (including, but not limited to, water, electric, phone and sewer lines) that are located in areas in which Charter intends to install the Equipment. Charter shall be responsible for any damage to public utility lines that are located along the routes or in the location in which Charter installs any Equipment, to the extent such damage arises from Charter's installation activities.
- 3. RESPONSIBILITY TO MARK PRIVATE UNDERGROUND LINES.** If Property Owner has private underground lines at the Premises that could impact Charter's installation of Equipment, including, but not limited to, sprinklers, sprinkler heads, drains, cables, pipes and wires (collectively "Impacted Private Lines") then both parties shall, in advance of any underground construction performed by Charter, work together, to the best of their abilities, to research the existence of all Impacted Private Lines (hereinafter "Joint Effort"). In order to facilitate the Joint Effort, Property Owner provides below its authorized representative (with contact information) regarding these Joint Efforts.

Name: _____ Address: _____ Phone: _____

CONFIDENTIAL

After the Joint Effort the following shall take place: 1) Charter will make a determination on the need to locate and mark Impacted Private Lines and 2) If deemed by Charter necessary to do so, Property Owner will locate (including verification of) and clearly mark all Impacted Private Lines to the extent required by Charter and State of MO utility locate laws. Property Owner will hold harmless, defend and indemnify Charter from and against any and all losses, damages, claim, demand, liability, legal proceeding or similar action arising from or with respect to unmarked Impacted Private Lines located on the Premises. In the event that Charter damages any clearly marked Impacted Private Lines that are located along the routes or in the location in which Charter installs any Equipment then Charter shall, within thirty (30) days of written notice from Property Owner describing the scope and extent of such damage(s), commence to repair said damage(s) to Property Owner's reasonable satisfaction, to the extent such damages arises from Charter's installation activities.

CHARTER:

Charter Communications Entertainment I, LLC

By: Charter Communications, Inc., its Manager

By: _____
(Signature)

Printed Name: _____

Title: _____

Date: _____

PROPERTY OWNER:

(Insert Property Owner/Legal Entity Name Here).

CITY OF ST. CHARLES, MISSOURI

By: _____
(Signature)

Printed Name: SAUL A. FAITH

Title: MAYOR

Date: _____

Attest:

City Clerk

